SENATE—*Friday, July 19, 1991*

(Legislative day of Monday, July 8, 1991)

The Senate met at 9:15 a.m., on the expiration of the recess, and was called to order by the Honorable JOSEPH I. LIEBERMAN, a Senator from the State of Connecticut.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Behold, how good and how pleasant it is for brethren to dwell together in unity!—Psalms 133:1.

The U.S. Senate is the living symbol of our Union of States.

God, our Father, these words inscribed on the west wall of the Dirksen Building call to mind a familiar Latin phrase, e pluribus unum—out of many, one—and remind the Senate of its commitment to unity. Here they are, 100 Senators, like a great symphony orchestra with unimaginable potential and an incredibly complex score. Music is not made if all use the same instrument or play the same notes. That would be unbearable boredom and no one would listen. Diversity is the essence of harmony. Nor is music produced by throwing instruments at each other or by playing louder, or when each tries to solo or ignores the conductor.

Help your servants, Lord, to secure relationships which blend efforts and guarantee great music. Save us from discord that grinds and grates and grieves. Help each of us to follow the score of his conscience under Your direction as the maestro so they may make beautiful music together. In the name of Him whose mission is to unite all things. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, Friday, July 19, 1991.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOSEPH I. LIEBERMAN, a Senator from the State of Connecticut, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. LIEBERMAN thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADERSHIP TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. There will now be a period for the transaction of morning business with Senators permitted to speak therein.

The Chair recognizes the Senator from New Jersey [Mr. BRADLEY].

ON RACE AND CIVIL RIGHTS IN AMERICA

Mr. BRADLEY. Mr. President, what compels me to speak today is the state of race relations in America which every day exacts terrible costs on whites, on blacks, on all races, on the Nation. Let us begin by stating what is often unstated. Our destiny, both black and white, is bound together; the coal and iron of American steel. Each race, its strength inseparable from the well-being of the Nation. Each race, in need of the other's contribution to create a common whole.

All races must learn to speak candidly with each other. By the year 2000, only 57 percent of people entering the work force will be native-born whites. White Americans have to understand that their children's standard of living is inextricably bound to the future of millions of nonwhite children who will pour into the work force in the next decades. To guide them toward achievement will make America a richer, more successful society. To allow them to self-destruct because of penny-pinching or timidity about straight talk will make America a second-rate power. Black Americans have to believe that acquisition of skills will serve as an entry into society not because they have acquired a veneer of whiteness but because they are able.

Blackness does not compromise ability nor does ability compromise blackness. Both blacks and whites have to create and celebrate the common ground that binds us together as Americans and human beings.

Today, the legal barriers that prevented blacks from participating as full citizens have come down. Many notable African-Americans have walked through those open doors and up the steps to the corporate boardrooms, city halls, to the statehouse and to Presidential cabinets. Many more millions of African-Americans live ordinary lives in an extraordinary way in cities, towns, and farms across America. Hard-working, law-abiding families fighting to build a life for their kids; robust churches peopled by individuals of faith and commitment; educators willing to discipline and teach.

Yet 43 percent of black children are born in poverty. The black infant mortality rate and the black unemployment rate are twice those of white Americans.

And forming the backdrop for the urban neighborhoods where the poorest, most unstable families live is the daily violence. The number of black children who have been murdered in America has doubled since 1984. In Washington, DC, and many other American cities the leading cause of death among young black men is murder. That violence, and the fear of it, shape perceptions in both the white and black communities. For example, if you are white you know what you think when you pass three young black men on a street at night. If you are black you know the toll that the violence takes on black families both coming and going—more college age black males are in prison than in a college. Communities cannot develop if these trends continue nor can the potential of our cities be realized behind barricades patrolled by private security guards. Crime and violence cause poverty.

Visit a public housing project in one of our big cities. See the walls pockmarked by bullet holes. Smell the stench of garbage uncollected and basements full of decomposing rats. Hear the gunshots of drug gangs vying for control of territory that the community needs for its commercial and social life but that the police do not help them preserve—territory that bankers redlined long ago.

Listen, as I have, over the last few years across America to the stories of families trying to make it in the middle of this horror. Listen, in Elizabeth, NJ, to residents of public housing describe how the drug dealers prey on the joblessness and misery of all the residents but especially the young. Listen, in Chicago to project mothers, their children dodging bullets on the way to school, threatened with the murder of a younger son unless an older son joins the gang. Listen, in Newark, NJ, to a

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

grandmother, who, when asked what she wanted more than anything else said, "a lock that works." Listen, in Brooklyn, NY, to a former cocaine dealer gone straight saying that his brother lying inert in a crack stupor in front of me on the floor of his mother's meager apartment was going to be killed within a year by dealers who wanted their money. Listen, in Camden and Paterson, NJ, to doctors tell about crack children having crack children, alone—the fathers in prison or in an early grave—falling deeper and deeper into hopelessness. Cry out in anguish and cry out in anger about this kind of life in America today. And weep for all of us who allow it to continue.

But, go beyond tears of pity and guilt. Face the moral paradox. How can we achieve a good life for ourselves and our children if the cost of that good life is ignoring the misery of our neighbors? The answer has been to erect walls.

The wall of pride: We are better and deserve what we have. The wall of ignore the problem and it will go away. The wall of blaming the symptoms. The wall of liberal guilt that rationalizes and distances us from the fact that people are actually being murdered. The wall of innocence: We have nothing against black people, we did not know. The wall of brute force, used to oppress and separate. And finally the Willie Horton wall of demonization that says they are not like us.

All of these walls we have constructed have stunted our national growth and character and made us less able to lead the world by our living values. A maze we have seemed to lock ourselves into and are dangerously close to forgetting the way out. Put simply, there can be no normal life for blacks or whites in urban America or effective help for the ghetto poor until the violence stops.

Our failure to improve these conditions is inseparable from the fact that we no longer speak honestly about race in America. The debate about affirmative action is ultimately a debate about empowerment, past debts and what each of us thinks we owe another human being. But it does not directly affect the daily lives of families struggling against violence. They worry about survival, not college admissions. At the same time, we have to admit that neither Republicans nor Democrats have come up with good answers to these horrible conditions. As they say in my urban town meetings, "Very few politicians really care, or else things would already have changed."

Liberals have failed to emphasize hard work, self-reliance, and individual responsibility. Clearly, there are thousands of individuals, like Clarence Thomas, who have exercised individual strength and perseverance to overcome the obstacles of racial and economic oppression. But he also benefited from passage of civil rights laws which broke down the legal barriers of the past. The odds of overcoming a prejudiced attitude are better because your individuality is guaranteed by law. Individual responsibility also is a challenge to our humanity as much as to our ambition. White Americans make decisions each day, who they hire or fire or who their children play with, which ripple into the tide of American race relations.

At the same time, conservatives have failed to use the power of government for the common good. Even in the face of rampant violence, in urban ghettos, conservatives refuse to act. Clearly, the collective will of the Nation, when channeled through legislation can be an indispensable resource in the war against injustice and poverty. But it is also true that government should be held accountable for results. Bureaucrats who fail should be fired. Government success should be measured in problems solved and in conditions bettered. Teachers should teach. Nurses should give comfort, and welfare workers should listen. Government service is more than just a job.

People, black and white, are individuals not representatives of a racial creed. There is no African-American, there are African-Americans, each a distinct individual with a different view and attitude.

Yet, Americans often see race first and the individual second. That means each individual assumes all the costs of racial stereotypes with none of the benefits of American individuality. As long as any white Americans look at black Americans and associates color with violence, sloth, or sexual license, then all black Americans carry the burden of some black Americans. That is unfair. As long as any black Americans look at white Americans and associate color with oppression, paternalism, and dominance, all white Americans wear the racist exploiter label of some white Americans, and that is unfair.

It is ludicrous to say that all female black Americans are welfare queens, yet Ronald Reagan for a generation tried to etch that stereotype in the minds of his corporate, country club, and political audiences. It is ludicrous to say that all African-Americans are Willie Hortons. Yet, the Willie Horton ad was an attempt to demonize all black America. If you do not believe me, ask any African-American who tries to hail a cab late at night in an American city.

It is just as ludicrous to say all white Americans are Archie Bunkers, yet some self-appointed black spokespersons make a living preaching racial hate and make a mockery of the values civil rights leaders—both black and white—risked their lives for to end segregation.

Most of us do not confront the realities of race in America today. Ronald Reagan's welfare queen distorts reality. George Bush's rapist-murderer panders to those in the electorate who cannot see the individual for his color. Both cling to old relationships and old attitudes of inferiority and superiority, scapegoats and stereotypes. The result makes seeing the other races' perspective, much less the individual behind the color, more and more unlikely.

In the face of these problems, I challenged President Bush last week, on the Senate floor, to lead us by example and to tell us how he has worked through the issue of race in his own life.

I asked President Bush to help us alleviate five doubts about him: His record, from 1964 to the present. His choice to play the politics of race while economic inequality increases. His inconsistent words. His leadership. And his convictions.

There has been no response.

The President's silence, however, will not muffle the gunshots of rising racial violence in our cities. Silence will not provide the candor necessary to overcome the obstacles to brotherhood. Silence will not heal the division among our races. Silence will not move our glacial collective humanity one inch forward.

I, for one, feel compelled to speak—to speak from my own experience, and from my heart.

I grew up in a small town of 3,492, tucked between two limestone bluffs on the banks of the Mississippi River. It was a multiracial, multiethnic company town in which most of the people worked in the glass factory and were Democrats. The town had one stoplight and there were about 96 in my high school class, which integrated in the ninth grade.

My father, who never finished high school, was the local banker and a nominal Republican. To him a reliable customer was not black or white but one who paid off his loan. He used to say that his proudest moment was that, throughout the Depression, he never foreclosed on a single home.

Growing up, I sang in the church choir that was conducted by my mother. I played Little League and American Legion baseball, with black and white friends. I was a Boy Scout and I was the tallest French horn player in the high school marching band—or perhaps any marching band anywhere.

My mother wanted me to be a success; my father wanted me to be a gentleman; neither wanted me to be a politician.

I left that small town and went to college in New Jersey and then England, but after that—for a long time—I never thought of politics. I was a professional basketball player for the New York Knicks. From September to May for 10 years, I traveled across America

with the team. It was not a high school or college team. We were professionals. Basketball was our work that we did every day—together.

Each teammate had a different set of friends in every town. But, day in and day out, we lived together, ate together, rode buses together, talked together, laughed together, and of course, played together. During those years, my dominant teammates were Willis Reed, Dick Barnett, Walt Frazier, Dave DeBusschere, and Earl Monroe. We created one of the first basketball teams to capture the imagination of a national TV audience and we won the hearts of New Jersey and New York. It was an extraordinary group of human beings.

I wish I had $100 for every time in the last 20 years that someone—usually a white person—asked me what it was like to play on the Knicks and travel with my teammates. "What was it like?" I would ask, "What do you mean?"

"Well, you know, guys who came from such different backgrounds and had such different interests than yours."

"You mean that most of them were black? That I was living in a kind of black world?" I would ask.

"Well, yes!" they would finally admit, "What was it like on that team"

"Listen," I would say, "traveling with my teammates on the road in America was one of the most enlightening experiences of my life."

And it was. Besides learning about the warmth of friendship, the inspiration of personal histories, the powerful role of family in each of their lives and the strength of each individuality, I better understand distrust and suspicion. I understand the meaning of certain looks and certain codes. I understand what it is to be in racial situations for which you have no frame of reference. I understand the tension of always being on guard, of never totally relaxing. I understand the pain of racial arrogance directed my way. I understand the loneliness of being white in a black world. And I understand how much I will never know about what it is to be black in America.

I worried about all of that for a while, but then I forgot it. Because I had known for a long time that no one was just black or just white. We were all just human, which meant we were neither as virtuous as we might hope nor as flawed as we might think. The essence of humanity is treating each other with respect. Some of us will not be able to do that with words because we're prisoners of the words themselves. Others will be able to do it with words but never deeds. If we say "African-American" but think something else, where are we?; if we say "white brother" but think something else, where are we?

People of good faith need to find common ground—and I am not talking partisan politics. I am talking about the human heart.

It was William Faulkner who said that man is immortal "because he has a soul, a spirit capable of compassion, sacrifice, and endurance." Politics at its best touches these things, but only rarely does it penetrate to the depths necessary to confront the turbulence in each of our hearts; rarely does it celebrate our courage, our honor, our hope. We need a politics that does not divide us or demean us but helps us escape the easy evasions, see the truth, and prevail in our humanity.

President Lyndon B. Johnson did that when he signed the 1964 Civil Rights bill, a bill whose passage I witnessed in the Senate Chamber as a student intern. The bill ended separate restrooms and drinking fountains for black and white Americans. It ended the dirty motels that blacks often had to stay in because whites excluded them from "whites only" motels. It ended the "whites only" restaurants and the buses that reserved the back for blacks.

LBJ knew Texas. He grew up poor in the Depression. He saw politicians lose because they got too close to blacks. He understood the politics of race, and still he chose to provide moral leadership.

In the Senate race in Texas that same year George Bush, the son of eastern wealth who came to Texas to make his own fortune, ran for office as a Republican. He lost, but in the course of the campaign he opposed the civil rights bill being debated in Washington. The civil rights bill I saw passed in the Senate. The civil rights bill that Lyndon Johnson was to sign into law. Of the 1964 Civil Rights Act, candidate Bush said it "violates the constitutional rights of all people." I still have never heard President Bush say why he believes that. I have never heard him expess regret or explain why he opposed the most significant widening of opportunity for black America in the 20th century.

An enlightening and courageous response to today's condition does not begin and end with the legal solution that was the beginning in 1964. Today's solution must begin by accepting that the burning heart of the crisis of race in America is our individual and collective failure to address the problems of race in our own lives—and the failure of our leaders to address openly, and with moral courage the problems of race and poverty in our Nation.

It is a failure when we compare the ideals of our Nation with the reality in our streets. It is a failure when we compare the hopes of the privileged with the dying dreams of the disadvantaged. It is a failure when we compare our increasingly larger unskilled population with the labor needs of a growing economy. It is a failure to work through our own individual and national feelings about race. And until we correct these failures of attitude and inaction, we will not understand the meaning of race in America. This is hard to do for me, for you, for all of us, but it is not impossible. In fact, by turning our failures into successes we will be regenerating America, improving the standard of living for all Americans and preparing ourselves for a new kind of American leadership in the world.

While no one program, or set of programs, can solve the problems of race and poverty in this country, we, as a people, with the leadership of our President, can take steps toward a solution. I propose four steps.

First, remove the remaining legal barriers to equality of opportunity. In the context of our current debate, this means restoring those civil rights that were removed by the recent Supreme Court decisions in 1989. A 1991 Civil Rights Act will take us a long way in that direction. That will be done when the President orders his staff to stop looking at this issue as a political ad and to start seeing its relevance to our ability to win the global economic race.

Second, restore and revitalize a healthy, growing economy for all Americans. A rising tide does lift all boats. We have to begin to invest today for a better future for our children. This will mean lowering interest rates to encourage investment. This will mean tax relief for families with children. And this will mean difficult budget cuts in some areas in order to finance increased expenditures for programs—like Head Start and WIC that work—and for programs that will increase our productivity—programs in education, job training, health, and infrastructure.

Third, replace the politics of violence with the politics of public safety and intervene directly and massively against poverty, drugs, and violence. And by "we" I mean all concerned voices, especially those black and brown voices trapped within the swirling storm. Instead of politicians using Willie Horton to profit politically from people's fears or outbidding each other in a contest for the most draconian punishment, we need ideas to increase life chances, and timetables for action, for change and for results.

Being tough is necessary. I do not have much tolerance for those who make millions off the destruction of a generation. That is why we need the death penalty for drug kingpins who murder, tough sentences for drug-related crimes committed with a gun, and gun control that establishes a waiting period and a background check. But these measures alone are no guarantee of safety in your neighborhood. It is more difficult. The violence we fear

seems to erupt anywhere and for no apparent cause. The violence we fear is the violence of the predator who kills not for money or with a plan but at random for fun and with malice.

So what we need is more police, yes. The ratio of felonies to police has increased dangerously. But, better police too, and tougher laws. In many cities there are few places where people do not have to be vigilant. The concern is constant and pervasive. Yet, police often act as if they were an occupying army, fearful of an enemy population, responding from their cars to emergency calls. And while they have good reason to be alert, they make arrests only to have the arrested back on the streets shortly after or, if they go to jail, replaced by another predator who feels emboldened or desperate or both. The result: No improvement in safety for the majority.

The politics of public safety implies police, armed with a popular mandate, out in the community building partnerships with the law abiding majorities. Together they will help to prevent crime in all neighborhoods of a city. They will identify the indigenous resources that can form the critical base of self-help and intelligence upon which Government and police assistance can be leveraged. The politics of public safety succeeds only if citizens feel more secure. Surely, if the President cared about these problems, he could direct his administration to come up with sharper ideas and the resources to help Government agencies and local police implement them. If we are serious about reducing violence and improving safety, we can do no less.

Fourth, and most importantly, begin an honest dialog about race in America by clearing away the phony issues that can never bring us together. I ask President Bush to promise never again to use race in a way that divides us. Communicating in code words and symbols to deliver the old shameful message should cease. Race baiting should be banished from our politics.

And then, I ask every American to become a part of the dialog that lifts this discussion to the higher ground. Beginning with ourselves, each of us must address our own personal understanding or misunderstanding of race. Ask yourself, when was the last time you had a conversation about race with someone of a different race? Ask yourself what values are shared by all races? And begin to ask our leaders how they have confronted their own understanding or misunderstandings about race in their own real lives—not just their political careers.

I commit myself to work as hard as I can for as long as it takes on each of these four steps. All of them will require concerted action and leadership wherever we can find it. Only one can be achieved by words: The last, the quest for an honest dialog. But without it all the others could misfire—not solving the problems or, worse, being manipulated by those who would keep us from our better selves.

The other day a press person said to me that his magazine was doing a story on racial integration—is it dying, is it changing, is it less relevant, does it hold the same appeal as it did, is America moving beyond it or away from it, is it a means or is it an end? I believe that integration and race and civil rights are central to our American future. They are not merely programmatic issues. They are not political trends. They are fundamental questions of attitude and action, questions of individual moral courage and the moral leadership of our Nation. James Baldwin, returning from France in 1957 and counseling his nephew in 1957 not to be afraid during the civil rights demonstrations of the early 1960's, concludes with this:

> I said that it was intended that you should perish in the ghetto, perish by never being allowed to go behind the white men's definitions, by never being allowed to spell your proper name. You have, and many of us have, defeated this intention; and, by a terrible law, a terrible paradox, those innocents who believed that your imprisonment made them safe are losing their grasp of reality. But these men are your brothers—your lost, younger brothers. And if the word integration means anything, this is what it means: that we, with love, shall force our brothers to see themselves as they are, to cease fleeing from reality and begin to change it. For this is your home, my friend, do not be driven from it; great men have done great things here, and will again, and we can make America what America must become.

I yield the floor.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER (Mr. BRYAN). The Chair recognizes the Senator from Minnesota [Mr. WELLSTONE].

THE REMARKS OF SENATOR BRADLEY

Mr. WELLSTONE. Mr. President, I came here to speak about the National Voter Registration Act for 1991, but if I could for a moment I have a few words that I would like to say to my distinguished colleague from the State of New Jersey. These words are not rehearsed. They are not written down. But I have been sitting here listening to his remarks. I have to respond.

First of all, I want to say to the Senator from New Jersey that when I think about why I wanted to be elected to the U.S. Senate and serve here I think about a definition of politics which says that politics is about the improvement of people's lives. I think about political leadership as being a leadership that inspires people, and calls on people to be their own best selves. I really believe that is what the Senator from New Jersey represents. I am so appreciative of his eloquence and the power of what he said.

I cannot, Mr. President, truthfully say that I was the tallest one in my band when I was in high school; different roots. I was perhaps one of the shorter ones in my high school. But I went to the University of North Carolina, and not to play basketball but to wrestle. Sheila and I were married when we were 19, and we had our first child when we were 20; not a lot of money. And between athletics, working, and school, I thought that was all we had time for. But there was that civil rights movement exploding all around us. We became a part of it.

What I want to say to Senator BRADLEY from New Jersey is that what Vincent Harding, Jr., said about the way people talked about Martin Luther King, Jr., applies to his words today. Black people, African-American people used to say about Martin Luther King, Jr., as he left the pulpit and went out in the communities where the people were, that Dr. Martin Luther King, Jr., was walking his talk. In other words he did not separate the life that he led from the words that he spoke.

I believe that the Senator from New Jersey is walking his talk. He is saying what needs to be said in our country today. He is appealing to the goodness of people in our country, and there is a lot of goodness. He is inspiring us. He is calling upon us to be our own best selves. He is warning us that we must not be divided by race. He is saying we can do much better as a nation, and he is absolutely right.

I just would like to thank the Senator for a truly wonderful speech which is far more than a speech.

NATIONAL VOTER REGISTRATION ACT

Mr. WELLSTONE. Mr. President, I cannot help thinking that there is a connection between the words of the Senator from New Jersey and the action that we took last night, or I should say the inaction that we took last night in the U.S. Senate. Last night I spoke about this with some anger but the Senator from New Jersey has put me in a different mood. I think I would like to try and talk about that vote last night in a different context, and perhaps in a different way.

Last night—the people of our country should know this—we had a cloture vote. That cloture vote was a vote about whether or not we should proceed with the debate and discussion about a piece of legislation called the National Voter Registration Act of 1991, sponsored by Senator WENDELL FORD from Kentucky and Senator MARK HATFIELD from Oregon.

What did that legislation call for? That legislation is interesting, given what the Senator from New Jersey had to say, and was really an extension of the Civil Rights Acts of 1965, the Voting Rights Act. That legislation said

that we would in the United States of America reach out and make sure that all citizens in our country regardless of their race or their income or their age or where they lived would have the full opportunity to register and to vote.

Mr. President, it should be pointed out that 75 million people in our country are not registered to vote. Of the people that vote, of the people that are registered to vote, fully 85 percent of them turn out to vote. But 75 million people are not registered to vote. There is a problem of nonparticipation in our country. What a better country it would be if everyone participated. The problem is people find it so difficult to register.

So this Voter Registration Act of 1991 called for several different things. First of all, it would require that we have motor voter. We have this in my State of Minnesota. Many States have it. There is a driver's license form, and then a voter registration form. It makes it easier for citizens to register to vote.

What else did this legislation call for? It said that when you go into a social service agency, unemployment office, welfare office, public agency, that staff in a scrupulously nonpartisan way—it is not Republican or Democrat—would have forms available and enable people to register to vote.

Finally, what this legislation called for was that every State in the United States of America would send out to people by mail registration forms so they could register by mail.

Mr. President, why did Senator FORD from the State of Kentucky introduce this legislation? It goes to the very heart of what the Senator from New Jersey had to say. Post-1896 election in our country, we put into effect some laws that we cannot be proud of and some rules and regulations that we cannot be proud of. Some of those laws were a poll tax. Some of those laws had to do with literacy tests. You could not vote unless you paid a tax. There were literacy tests that were discriminatory, and all sorts of ways that we disenfranchised people so they could not vote. Then we had a whole series of rules and regulations which I will get to in a moment.

Mr. President, it took us a half a century to overturn those discriminatory laws. That was the Voting Rights Act of 1965.

We did overturn a whole maze of confusing, bewildering, and discriminatory rules and regulations that now exist in our country. In only four States can you actually register on election day. Minnesota is one of them, Maine is one of them, Wisconsin is one of them. In North Dakota you do not have registration. Those States interestingly enough have the highest levels of voting participation.

In about half the States in our country you can register by mail or you can pick up a form somewhere, which makes all the sense in the world. In the other States you cannot register by mail. You have to figure out where to register, where to go, what times you can register—you name it. All too often when a person tries to figure out where to register, he or she does not know where to go.

If you can figure out where to go, if you can get there, sometimes in rural communities you have to travel 70 or 80 miles, then you have to make sure it is open. Quite often the office is only open maybe noon hours during the week, not on weekends. It is very difficult for working people to register and vote. It is very difficult for people in rural areas to register and vote. Mr. President, it is very very difficult for people with disabilities to register and vote.

The Senator from Kentucky, WENDELL FORD, and the Senator from Oregon—and I am proud to be a cosponsor—introduced legislation to expand democracy, to make it easier for people to register and vote. Their piece of legislation was the Voting Rights Act of 1991. Their piece of legislation would have made this a better country, because it would have ended this discrimination against people, and it would have allowed the United States to have a much higher level of voter participation.

Mr. President, I want to point out to you and to the people in our country that right now we are rock bottom among all the major democracies in the world. We have the lowest voting participation. Barely 50 percent of the people turn out in a Presidential election. We are the only country which has the system of personal periodic voting registration which puts the burden on the individual to figure out where, when, and why, and how to register and vote.

Mr. President, this piece of legislation would have taken us in the right direction. This piece of legislation would have dealt with the problem of 75 million people not being registered to vote.

This piece of legislation would have sent a message all across our country that our Government is committed to the idea that it does not make any difference what the color of your skin is, does not make any difference where you live, does not make any difference whether you are old or young, does not make any difference whether you are old or young, does not make any difference whether you are disabled or not; we would play a positive affirmative role in making sure that every citizen would have the same opportunity to register and vote. Motor voter, Bureau of Motor Vehicles, driver's license registration form, surely this is a moderate proposal. Registration forms, when you go into a food stamp office, you have an opportunity to register to vote. Surely, all the people in the country support that.

But last night, unfortunately, we had a partisan vote. As a freshman Senator, I could hardly believe it. We had a vote on whether or not we would proceed—I see the Senator from Louisiana here now—and whether we would have the opportunity to discuss and debate this; and only three Republicans—for reasons that I do not quite understand—were able to vote for cloture. That is absolutely unbelievable.

We had a debate afterwards, and one of my Republican colleagues said that he was concerned that—if in fact we had laws and rules and regulations in the United States of America which would make sure that every citizen would have the same opportunity to register and vote—if we should pass legislation to make sure that the 75 million people that were not registered would have that opportunity, maybe they would vote for Democrats.

Well, Mr. President, you do not refuse to pass legislation that will provide assistance to people with disabilities because you are worried how they will vote. You do not refuse to pass legislation that would help senior citizens register to vote because you are worried about how they would vote. You do not refuse to overturn discriminatory rules and regulations and laws because you are worried how people would vote. If that was the mindset in 1964 and 1965, we never would have passed the Voting Rights Act of 1965.

I really wonder, hearing the eloquent remarks of the Senator from New Jersey, how far back we have turned the clock. This is a moderate piece of legislation, introduced by Senator FORD from Kentucky and Senator HATFIELD from Oregon, cosponsored by other Senators, enabling people to register to vote in the United States of America, making sure that we would expand participation, making sure we would have more democracy, making sure that we would have a better country.

Well, Mr. President, we will be back to this vote in September. We will get the 60 votes for cloture, because when you have a good idea, when you have an idea that is fair and just, when you have a piece of legislation that does call upon all of us in America to be our own best selves, when you have a piece of legislation that would enable all citizens to register and vote, when you have a piece of legislation that would expand democracy, when you have a piece of legislation that would end discrimination, when you have a piece of legislation that would enable the citizens most vulnerable to be able to vote in the ballot box and protect themselves, vote for themselves, vote for their communities, and vote for their children, when you have a piece of legislation that is the very best kind of legislation that you could ever pass for making this a better country with

more participation, you can kill that piece of legislation one night. But you cannot kill it forever.

Come September, the Senator from Minnesota and many other Senators are committed to voting for cloture, having a full debate and discussion, and passing this legislation.

Mr. President, I make an appeal to all of my Republican colleagues. I commend at least one of my colleagues for debating last night. I make this appeal: You have nothing to be afraid of. You should never be afraid of people registering to vote. You have nothing to worry about. Do not vote against a piece of legislation because you are worried about more participation. That is what made us a great country. Do not vote against a piece of legislation because you are worried about more democracy. That has made us a better country. Do not vote against a piece of legislation which the vast majority of people in the United States of America, out of a sense of fairness, will support.

This piece of legislation is not for black us, it is not for white us, it is not for old us, it is not for young us, it is not for rural us, and it is not for urban us; it is for all of us. We will pass the National Voter Registration Act of 1991, Senate bill 250, and we will pass it this year.

I yield the floor.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The senior Senator from Louisiana is recognized.

NATIONAL ENERGY SECURITY ACT OF 1991

Mr. JOHNSTON. Mr. President, today is the fourth day that I have taken the floor to speak about the National Energy Security Act of 1991, a balanced comprehensive energy bill reported by the Senate Energy Committee by a vote of 17 to 3.

Mr. President, in addressing the need for comprehensive legislation to implement a national energy strategy, I frequently have made the point that there is no single answer to our energy policy dilemma. There are no silver bullets. Still there are certain indispensable building blocks that must form the cornerstones of any plan that is worthy of being called a national energy strategy. Without a doubt, natural gas is one of those cornerstones.

Mr. President, S. 1220, the National Energy Security Act of 1991, contains a comprehensive set of natural gas initiatives. These initiatives will enhance our Nation's energy security by promoting greater use of natural gas. S. 1220 includes a title devoted solely to natural gas. Title XI addresses regulatory issues and the Federal Energy Regulatory Commission. But the natural gas provisions do not end with title XI. S. 1220 includes alternative fuels and fleet provisions that can be expected to open the door for natural gas to play a bigger role as a vehicular fuel. S. 1220 includes provisions to reform the Public Utility Holding Company Act that can be expected to create opportunities for natural gas to fuel a greater percentage of new electric powerplant construction. S. 1220 authorizes greatly expanded Federal research and development and commercialization programs for natural gas end-use technologies and resource recovery technologies.

The approach to natural gas in S. 1220 stands in dramatic contrast to the approach taken by the Congress the last time that comprehensive energy legislation was considered. When the Congress enacted parts of the Carter energy plan in the late 1970's, the conventional wisdom was that our Nation's natural gas resource base was severely limited and diminishing quite rapidly. This perception was based on shortages of natural gas on the interstate market and the highly disruptive curtailment of natural gas supplies to downstream markets during the winter heating season. As we recognize now, the cause of the problem was not natural gas the resource but rather Federal natural gas policy that unduly restricted the price of natural gas dedicated to the interstate market. Nevertheless, based on the view that natural gas was a rapidly diminishing resource that must be reserved for high-priority uses, the Congress passed laws that discouraged and, in some cases, prohibited the use of natural gas. The Natural Gas Policy Act of 1978 included provisions for the incremental pricing of natural gas supplied for industrial use and for the emergency allocation of natural gas in times of shortage. The Powerplant and Industrial Fuel Use Act prohibited the use of natural gas in industrial boilers.

Experience has proven that the natural gas resource base is far larger than was assumed in the 1970's and can be produced economically for a much lower cost than was assumed. Experience also has proven that Federal decontrol of the price and allocation of natural gas at the wellhead results in lower natural gas prices. The competitive forces unleashed by partial wellhead decontrol under the Natural Gas Policy Act of 1978 altered profoundly the way that all segments of the natural gas industry do business and the way that the Federal Government regulates the natural gas industry. The experience with partial wellhead decontrol under the NGPA led the Congress to enact the Natural Gas Wellhead Decontrol Act of 1989. Under this new law, all remaining Federal price and allocation controls on natural gas at the wellhead will be phased out by January 1, 1993.

The ultimate beneficiary of the changes brought about by the NGPA is the American consumer. Look at what happened after January 1, 1985. It was on that date that new natural gas was decontrolled at the wellhead under the NGPA. As this chart illustrates, in real dollars, wellhead natural gas prices have plummeted. This has translated into consumer benefits at the downstream end of the pipeline. Look at the trend for natural gas prices at the city gate, the point at which a local distribution company takes possession of the natural gas. Mr. President, for the information of my colleagues, I ask unanimous consent that a copy of this chart be reprinted in the RECORD following my statement.

The approach to natural gas in S. 1220 is based on recognition that greater utilization of natural gas is in the best interest of the Nation. Our Nation's energy security is served by greater utilization of natural gas. Natural gas is a domestic fuel that can displace imported oil in a variety of applications, fueling automobiles and mass transit vehicles, generating electricity, and heating homes and businesses. Over 90 percent of the natural gas consumed in the United States is domestic production. Our neighbor and largest trading partner, Canada, supplies almost all of our natural gas that is not produced here at home.

Natural gas is abundant. Our Nation's natural gas resource base will last through the midpoint of the next century, even at significantly increased levels of consumption. In connection with assembling the national energy strategy, the Department of Energy estimated that with advanced production technology, economically recoverable natural gas resources in the lower 48 States total almost 1,100 trillion cubic feet. To this can be added another 100 tcf of natural gas in Alaska that is estimated to be economically recoverable. Presently, the Nation consumes approximately 19 tcf of natural gas per year. At this rate, the economically recoverable resource base in the lower 48 States would last almost 60 years.

Natural gas is reasonably priced. For the past several years the natural gas market has been characterized by ample supplies and low wellhead prices. As a result, natural gas sells at a substantial discount to oil. A comparison of natural gas delivered to the city gate in New York City and fuel oil delivered to New York harbor is illustrative. On an energy equivalent basis, natural gas sells at a 36-percent discount to low-sulfur residual fuel oil and at a 62-percent discount to heating oil. Even as supply and demand for natural gas come into greater balance, natural gas prices should remain in line with competing fuels.

The distribution infrastructure for natural gas is well developed. It includes production facilities, gathering lines and processing plants. It includes an interconnected network of large-di-

ameter, high-pressure interstate pipelines. It includes local distribution lines that deliver natural gas to homes, businesses, factories, and powerplants. Altogether, our Nation is crisscrossed by over a million miles of natural gas pipeline. The natural gas delivered through this infrastructure supplies almost a quarter of our Nation's energy needs. And more pipeline is being added to tap into new production areas and to serve new markets.

Natural gas makes sense not only for energy security, but also for the environment. Natural gas is the cleanest fossil fuel. Natural gas vehicles can help to reduce the formation of urban smog. Natural gas in electric powerplants can reduce emissions of the precursors of acid rain. Natural gas can displace dirtier fuels and reduce emissions of carbon into the atmosphere.

How will S. 1220 promote greater natural gas utilization? For starters, Mr. President, S. 1220 will eliminate regulatory barriers that inhibit natural gas from getting to where it is needed. That is the purpose of title XI.

First, title XI creates new fast-track procedures for the Federal Energy Regulatory Commission to authorize the construction of new interstate natural gas pipelines. One of these fast-track options amends section 7 of the Natural Gas Act to include an optional certificate procedure. Project sponsors willing to assume the financial risk associated with a new pipeline will be able to take advantage of this new procedure. In contrast, under the FERC's traditional procedure for pipeline certification, the project sponsor is guaranteed an opportunity to recover its cost of service from ratepayers and must subject itself to much greater regulatory scrutiny. The other fast-track option amends section 311 of the NGPA to expand the authority to construct and operate pipeline facilities for the transportation of natural gas in interstate commerce. In addition, title XI streamlines the administrative process at the FERC. Environmental reviews in connection with pipeline certification applications will be expedited. This will be done by eliminating redundant paperwork without diminishing environmental security. Delays in the rehearing of FERC orders will be eliminated.

Second, title XI amends the law to enhance natural gas producer access to the market. Pipelines will be authorized to file joint rates with the FERC. These rates will help producers in cases where it takes more than one interstate pipeline to get natural gas from the producing field to the city gate. Limited antitrust relief will be granted to small producer cooperatives. FERC will be authorized to order interstate pipelines to interconnect with producing facilities to accept deliveries of gas for shipment out of a producing area.

Third, regulatory barriers to greater use of vehicular natural gas, or VNG, will be eliminated. The law will be clarified so that gas distributors do not find themselves subject to burdensome Federal regulation on account of their VNG activities. VNG retailers who are not otherwise public utilities will be exempt from State public utility regulation. The Public Utility Holding Company Act will be amended to prevent a company from becoming a registered gas utility solely because of its VNG activities.

Will these changes in regulatory law make a difference? You bet they will. Preliminary estimates by the Department of Energy indicate that title XI will increase both natural gas production and natural gas consumption. DOE predicts that because of title XI, annual natural gas consumption will increase by somewhere between the equivalent of 282,000 and 658,000 barrels of oil per day by the year 2000. By the year 2010, DOE predicts that more than the equivalent of 470,000 barrels of oil per day of increased annual natural gas consumption will be created by title XI. On the other side of the equation, DOE predicts that because of title XI annual natural gas production will increase by somewhere between the equivalent of 235,000 and 611,000 barrels of oil per day by the year 2000. By the year 2010, DOE predicts that more than the equivalent of 470,000 barrels of oil per day of increased annual natural gas production will result from title XI.

Mr. President, title XI of S. 1220 incorporates certain compromises. Individual provisions of title XI may not represent the optimal solution for all concerns. Still, as a total package title XI enjoys wide support among the major segments of the natural gas industry, natural gas producers, both majors and independents, interstate pipelines, and local distribution companies. To amend title XI in any significant way would risk upsetting the balance that the Energy Committee worked so hard to achieve.

The only really contentious aspect of title XI is natural gas imports. Independent natural gas producers insist that they are at a disadvantage when competing with natural gas imported from Canada. They contend that the disadvantage is created by a disparity between the way that United States and Canadian regulators allocate costs in the rates for natural gas pipeline transportation. This allocation of costs is known as rate design. The disparity in rate design methods has become known as the rate tilt issue. Title XI includes an amendment offered by Senators WIRTH and DOMENICI to address the rate tilt issue. I supported the Wirth-Domenici amendment because I believe that our domestic natural gas producers deserve a fair shake.

The Wirth-Domenici amendment set off all kinds of bells and whistles. The Government of Canada contends that the amendment violates the United States-Canada Free-Trade Agreement. Some U.S. local distribution companies and gas users maintain that it will frustrate their ability to acquire natural gas on a competitive basis. Much of the problem, I am convinced, has to do not with the underlying purpose of the amendment, but rather with the manner in which it is drafted.

I am hopeful that this matter can be resolved. I am encouraged by some recent developments. First, substitute language has been proposed by an interagency working group from within the administration. This substitute language is intended to address the rate tilt issue without offending the free-trade agreement. Second, in orders concerning new pipelines to bring domestic gas to markets also served by imported gas, the Federal Energy Regulatory Commission has begun to adjust the rate design to be more comparable to the Canadian rate design.

So much for natural gas regulation. How else will S. 1220 promote greater natural gas utilization? One way, Mr. President, will be through the alternative fuels and fleet provisions of title IV of S. 1220. I described those provisions in some detail during morning business yesterday. The program will be fuel neutral and the market ultimately will decide the alternative fuel of choice. Natural gas is well positioned to be the fuel of choice. Natural gas enjoys certain inherent advantages compared to other fuels. In addition to the various attributes already recounted, natural gas requires no costly refining or processing to be used as an automotive fuel. When you add it all up, Mr. President, natural gas can be a real winner as a transportation fuel.

Electric generation is another area where natural gas use will expand. In early 1989, the Department of Energy predicted that natural gas use for electric generation will double by the year 2000. DOE predicted that by then 6.2 trillion cubic feet of natural gas per year will be used to generate electricity. Last year's enactment of the Clean Air Act amendments will do even more to make natural gas an attractive fuel for electric generation.

Title XV of S. 1220 would amend the Public Utility Holding Company Act. I intend next week during morning business to describe PUHCA reform in some detail. For purposes of today's discussion, the important point is that title XV will amend PUHCA to remove corporate obstacles to independent power production. Removing these obstacles creates the opportunity for the natural gas industry, as well as others, to take an equity interest in independent power production facilities. PUHCA reform will let the natural gas industry participate to a greater extent in the generation of electricity.

Natural gas has made great strides in competing for a share of the electric generation market. Improvements in natural gas-fired electric generating technology and environmental imperatives dictated by the Clean Air Act have made natural gas a very attractive option for electric generation. Experience with cogeneration facilities constructed under the Public Utility Regulatory Policies Act, or PURPA, has demonstrated the reliability and efficiency of natural-gas-fired turbine generators. The remaining question for the future of natural gas and electric generation is security of supply. By removing corporate obstacles to the ownership of independent power facilities, PUHCA reform creates the opportunity for the natural gas industry, the group that should be most expert at assembling reliable long-term gas supply, to provide the answer.

Mr. President, 2 weeks ago, I and the distinguished ranking minority member of the Energy Committee had a chance to visit Teeside—Teeside is the name of a town in England—at that location a 1,700-megawatt gas-fired electric generating facility being built by Enron Corp. of the United States. It will be the largest facility of its type in the world. Mr. Ken Lay, who is Enron's CEO, tells me that with PUHCA reform this kind of facility can be replicated in the United States. It is said that there are 150,000 megawatts of electric generating capacity that will be needed in this country in the next 10 years. I asked Mr. Lay how much of that could be fired by natural gas. He said that with PUHCA reform he believes that 35 percent of that 150,000 megawatts of electric generating capacity can be filled by natural gas. So the implications of PUHCA reform for the use of this abundant fuel, natural gas, are really overwhelming.

Finally, Mr. President, over the long term, greater natural gas utilization can be expected to result from the expanded research and development and commercialization programs that will be authorized under title XIII of S. 1220. Title XIII authorizes a program of basic R&D and cost-shared commercialization projects to promote new and more efficient uses of natural gas. Examples include emissions control technologies, including cofiring natural gas with coal, natural gas vehicle technologies, fuel cells for electric power generation, heating and cooling technologies, and advanced combustion turbines. Title XIII also authorizes a program for basic R&D and cost-shared commercialization projects to develop technologies to increase the economically recoverable natural gas resource base. Examples include technologies to improve the recovery of natural gas from tight sands, coal beds, and geopressurized formations.

In conclusion, Mr. President, natural gas must be one of the cornerstones of a comprehensive national energy strategy. Greater utilization of natural gas can enhance our Nation's energy security and benefit the environment. The natural gas provisions of S. 1220 provide a blueprint to get us there.

THE WEPCO ISSUE AND SECTION 14201 OF S. 1220

Mr. President, one of the titles of our legislation has to do with the so-called WEPCo issue. Since we reported that bill, a WEPCo rule has been promulgated by EPA. That rule appears to cover the subject matter adequately. So it is our intention to extract, to take from our bill, those WEPCo provisions under certain conditions.

Mr. President, section 14201 of S. 1220, the National Energy Security Act of 1991, addresses a very complex electric utility regulatory issue known as the WEPCo issue. Some have asked how section 14201 might interact with the Clean Air Act as amended by the Congress last year. I would like to take this opportunity to respond to this question.

First, Mr. President, it might help to outline briefly the WEPCo issue and the purpose of section 14201. The WEPCo issue involves the Environmental Protection Agency's administrative interpretation of new source requirements under the Clean Air Act; in particular, EPA's determination of when a physical change at an existing stationary source results in an increase in emissions thereby triggering new source requirements. EPA's skewed methodology for making this determination created considerable disincentive for electric utilities and others to make physical changes at their facilities, including changes to reduce emissions, improve efficiency and reliability, and facilitate fuel switching.

Section 14201 of S. 1220 addresses the WEPCo issue by specifying how physical or operational changes at existing electric utility powerplants will be treated for purposes of new source performance standards and new source review under the Clean Air Act. One set of rules is specified for physical or operational changes that constitute pollution control projects. Another set of rules governs physical or operational changes made for other purposes. The applicability of both sets of rules is limited to cases where the powerplant's maximum achievable capacity is not increased by reason of the changes. Finally, in a case where the physical or operational change results in a "modification", as that term is defined by the Clean Air Act, a standard for nitrogen oxide control requirements is specified.

What are some of the questions that have been asked about section 14201? First, some have questioned whether this provision would create a loophole in the Clean Air Act. This question appears to be based on the erroneous assumption that section 14201 would override much of the preexisting Clean Air Act.

In fact, Mr. President, there is no language whatsoever in section 14201 that would abridge the protections provided by national ambient air quality standards, state implementation programs and new source review. To the contrary, subsection (g) of section 14201 states expressly that "[n]othing in this section shall authorize an increase in emissions which causes or contributes to a violation of a national ambient air quality standard, PSD increment, or visibility limitation." It could not be more clear.

Second, some have asked whether section 14201 would enable refurbished and reconstructed powerplants to evade new source performance standards and new source review. In fact, section 14201 delineates the scope of refurbishment and reconstruction that may occur without triggering NSPS and new source review.

Subsection (a) addresses the application of new source performance standards under section 111 of the Clean Air Act in a case where the physical or operational change is not a pollution control project. NSPS is established on the basis of a stationary source's emissions rate. More precisely, it is measured on the basis of how many kilograms per hour of a pollutant are discharged into the atmosphere. Subsection (a) provides a test for determining whether a physical or operational change at a powerplant will be considered to be a "modification" which may trigger NSPS. Under this test, a physical or operational change at a unit will not be treated as a modification if it does not increase the maximum hourly emissions of any pollutant regulated under section 111 above the maximum hourly emissions achievable at that unit during the last 5 years of operation prior to the change.

This 5-year reference period is important because the performance of electric powerplants ordinarily deteriorates with the passage of time. As a powerplant wears out, it is said to become derated. In other words, it cannot perform up to its original rated generating capacity. Therefore, in the case of a 30-year old powerplant that has been significantly derated, subsection (a) would prevent the operator from using what the unit's maximum hourly emissions had been when it was brand new for purposes of calculating whether NSPS had been triggered.

A second limitation on the scope of refurbishment and reconstruction under section 14201 is provided by subsection (e). This provision codifies the so-called reconstruction rule in EPA's regulations. Under this provision, a physical or operational change that is not a pollution control project would trigger NSPS if the fixed capital cost of the change or replacement exceeds 50 percent of the fixed capital cost of a

comparable new facility. The reconstruction rule will prevent repowering projects from escaping NSPS. A repowering project is one where a new boiler is installed in order to extend the life and the power generating capacity of a powerplant.

A third limitation on the scope of refurbishment and reconstruction under section 14201 is provided by subsection (d). This provision limits the applicability of the rules for both pollution control projects and other kinds of physical or operational changes. Under subsection (d), a physical or operational change falls outside the scope of section 14201 if it will increase a unit's maximum achievable capacity above that achievable during the last 5 years of operation prior to the change. The subsection also gives a permittee the latitude to suggest to EPA other periods that may be more representative.

Section 14201 also protects against increases in emissions on an annual basis. Subsection (c) specifies that physical or operational changes that are not pollution control projects will not trigger new source review under parts C or D of the Clean Air Act unless they result in a significant net increase in representative annual emissions during normal operations. The concept of "significant net increase" in emissions as the threshold for triggering new source review is taken from EPA's regulations.

Third, some have asked whether the provision governing pollution control projects would encourage significant increases in local air pollution. What is the basis for this assertion? First, it is stated that subsection (b) includes no requirement that the reduction in emissions must occur at the particular site of the pollution control project. It is suggested that in order to reduce systemwide emissions a utility might undertake a pollution control project that results in operating the controlled powerplant at a higher capacity in order to back out a dirtier plant at another location. It is suggested further that, while this might reduce systemwide emissions, it might also increase emissions at the site of the pollultion control project. This assertion ignores subsection (g) of section 14201. Subsection (g) makes clear that a physical or operational change undertaken under section 14201 may not cause or contribute to a violation of the Clean Air Act programs intended to protect local air quality.

Second, it is stated that because subsection (b) applies to physical or operational changes "primarily for purposes of reducing emissions," it creates some kind of a loophole for powerplant operators to spend nearly 50 percent of project costs for other purposes. While subsection (b) does not include any numerical cutoff as to what percentage of project costs must be for emissions reduction in order to qualify as a "pollution control project," it is difficult to imagine EPA tolerating significant expenditures for physical changes unrelated to emissions reduction. In fact, what is intended by the words "primarily for purposes of pollution control" is to permit the inclusion of physical or operational changes for which there also may be an economic motivation. For example, a powerplant operator may make physical changes to facilitate the conversion of the powerplant from fuel oil to natural gas. Some of the motivation for this change may be based on fuel price and operational flexibility in addition to environmental compliance.

Fourth, it has been asked whether the nitrogen oxide control requirements of subsection (f) of section 14201 will allow for increases in smog-forming emissions of nitrogen oxides. Once again, Mr. President, the express provisions of section 14201 provide the answer. Paragraph (2) of subsection (f) states that "[a]ny State or local permitting authority shall retain the right to impose more stringent limitations for control of nitrogen oxides." Therefore, should it appear that compliance with the subsection (f) standards would cause or contribute to local air quality problems, local authorities would remain free to adopt more stringent requirements.

Finally, Mr. President, it has been asserted that section 14201 is somehow at odds with the intent of the Congress and the administration in the enactment of the Clean Air Act Amendments of 1990. In fact, the conference report on the Clean Air Act Amendments of 1990 took a neutral stand on the merits of the WEPCo issue. To quote from the statement of managers: "The deletion of most provisions relating to the WEPCo decision is not intended to affect or prejudice in any way the issues or resolution of the WEPCo matter."

It is my hope that we need not debate WEPCo as part of the floor consideration of S. 1220. This is a terribly complex issue that is best left to the administrative agencies with special expertise in this area. In early June, the Environmental Protection Agency announced proposed rules clarifying the agency's policy concerning changes made at electric utility powerplants. In view of this development, and on the condition that no other WEPCo amendment be offered, Senator WALLOP and I have written to the majority leader and offered to withdraw section 14201 in the course of floor consideration of S. 1220. Mr. President, I ask unanimous consent that a copy of our letter to the majority leader be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE, COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, DC, June 28, 1991.

Hon. GEORGE J. MITCHELL,
Majority Leader, U.S. Senate, Washington, DC.

DEAR SENATOR MITCHELL: This responds to your letter of May 23, 1991, regarding the provision in the National Energy Security Act of 1991 adopted by the Energy Committee to address the so-called WEPCo issue.

Subsequent to your letter, the Environmental Protection Agency on June 6, 1991, announced proposed rules clarifying EPA's policy concerning changes made at electric utility powerplants. EPA's proposed rules represent a significant step toward resolving this difficult regulatory issue and are consistent with the Committee's intent in section 14201 of S. 1220. The proposed rules should provide electric utilities with greater confidence in determining how to comply with the Clean Air Act Amendments of 1990 and whether physical or operational changes trigger new source review.

While the Energy Committee does not desire to reopen last year's debate on the Clean Air Act Amendments, the Committee does have a legitimate interest in EPA's WEPCo policy as an energy issue. Prior to clarifying its new source review policy in the preamble to the proposed rules, EPA's policy as enunciated in the WEPCo decision and in pronouncements following judicial review of that decision deterred electric utilities from undertaking activities that made good sense from an energy policy perspective. Furthermore, in the absence of this clarification, electric utilities would have been discouraged from implementing cost-effective emissions reduction strategies. This would have added greatly to the cost of compliance with the Clean Air Act Amendments and would have burdened electric utility ratepayers with unnecessary rate increases.

In the Committee's view, section 14201 of S. 1220 represents an equitable balancing of the competing interests in the WEPCo issue. While we do not concur in your view of the possible air quality impacts of the provision, this debate hopefully need not be joined. In view of EPA's proposed rule, and on the condition that no other amendment on the WEPCo issue be offered, we are willing in the course of floor consideration of S. 1220 to offer an amendment to strike section 14201. We do reserve the right, however, to revisit the WEPCo issue should EPA in the rulemaking process, or in the final rule, deviate significantly from the proposed rule.

We sincerely hope that this represents the final chapter in our consideration of this difficult issue.

Sincerely,

J. BENNETT JOHNSTON,
Chairman.
MALCOLM WALLOP,
Ranking Minority Member.

Mr. BREAUX. Mr. President, before I get into the remarks I would like to make, I would just like to commend the distinguished senior Senator on the excellent statement on natural gas that he has just completed and, also, in a broader sense, for the excellent work he has done in bringing to this body a national energy policy, which this country sorely lacks.

I hope that the Senate will have an opportunity in the very near future to, in fact, bring the Senator's energy bill to the Senate floor for discussion. For

too long this Nation has done without any energy policy tht has been produced by the Congress. The energy policy in this country that we operate under is not made in this country. Indeed, it is made by OPEC every time they meet in faraway places and fix prices. If our companies did what they do, our companies would go to the penitentiary because their activities are illegal, and yet we continue to allow that type of action to determine energy policy of the United States. Senator JOHNSTON and his committee's bill will give the United States an energy policy that we sorely lack. I commend him for his good efforts in that regard.

Mr. BINGAMAN. Mr. President, I rise today in support of the natural gas provisions of S. 1220, the National Energy Security Act of 1991. S. 1220 contains a comprehensive set of natural gas regulatory initiatives as well as provisions that will stimulate greater natural gas utilization.

Mr. President, natural gas is our most undervalued energy resource. In the gas patch this will be remembered as the summer of the great price collapse. On the spot market, natural gas is selling at less than replacement cost. On an energy equivalent basis, natural gas is selling at nearly a 70-percent discount to fuel oil.

Mr. President, we need desperately to develop enhanced markets for natural gas. Not only is this in the best interest of the natural gas industry, it is in the best interest of the Nation. Natural gas can make important contributions to achieving our Nation's energy and environmental policy goals. Our Nation is blessed with a large natural gas resource base that can be developed economically. Natural gas can displace imported oil in a whole variety of applications. Natural gas is our cleanest fossil fuel and can make an important contribution to cleaning up our environment. Natural gas can fuel the electric powerplants that we will need to bring on line in the near future.

Mr. President, eliminating the impediments to natural gas achieving its potential should be one of the primary goals of our national energy policy. The natural gas initiatives in S. 1220 take important steps toward that goal.

The natural gas title of S. 1220, title XI, includes a series of provisions to streamline the regulatory process at the Federal Energy Regulatory Commission. A series of amendments that I offered on this topic were adopted by the Committee on Energy and Natural Resources as part of title XI.

Mr. President, significant economic costs result from regulatory delays in the approval of proposed natural gas pipelines. The sponsor of a proposed pipeline is not the only loser in these matters. So too are the customers that might be served by more plentiful natural gas supplies. Our Nation's economy loses out. When I introduced my amendments last February, I included for the record a paper prepared by a former member of the Federal Energy Regulatory Commission that attempted to quantify the costs associated with regulatory delay. These costs included the balance of payment costs from the importation of oil that could have been displaced by domestic natural gas; costs incurred by using a less efficient or more costly fuel; and environmental costs from using a more polluting fuel instead of natural gas.

As a case study, the author of this paper examined a proposed expansion of the Florida Gas Transmission System pipeline that took almost 4 years of proceedings at the FERC to win approval. He estimated that if the proceedings could have been cut short by 1 year, between $261 million and $195 million in economic and environmental costs could have been saved. In addition, balance of payments costs of $130 million could have been avoided. This is not a trivial matter.

Mr. President, title XI of S. 1220 also addresses an issue of special importance to independent natural gas producers in the State of New Mexico. The independent producers maintain that they are at a competitive disadvantage when competing with natural gas imported from Canada. They contend that this disadvantage is created by a disparity between the way that United States and Canadian regulators allocate costs in the rates for natural gas transportation. This regulatory disparity has become known as the rate tilt issue.

New Mexico's natural gas producers vie directly with imported natural gas for a share of the highly competitive California market. With producer margins already shaved to the bone, even a slight difference in the regulatory treatment of transportation costs for natural gas coming from different supply basins can make the difference between winning and losing a share of this market.

Mr. President, as part of title XI of S. 1220 the Committee on Energy and Natural Resources adopted an amendment to address the rate tilt issue. I joined with the authors of this amendment, Senators WIRTH and DOMENICI, as a cosponsor. The rate tilt amendment has proven to be contentious. The Government of Canada contends that it violates the United States-Canada Free-Trade Agreement. Some local distribution companies and gas users maintain that it will frustrate their ability to acquire natural gas on a competitive basis. While I take issue with these contentions, I am willing to work with all interested parties to find a workable solution. I am encouraged by the administration's recent willingness to join in this effort.

Mr. President, S. 1220 also recognizes the need to develop new markets for natural gas. The alternate fuel and fleets provisions create the opportunity for natural gas to play a bigger role as a transportation fuel. Reform of the Public Utility Holding Company Act will open the door for the natural gas industry to participate to a greater extent in the generation of electricity. Research and development and commercialization provisions should lead to new and more efficient ways to utilize natural gas and advanced resource recovery methods.

In conclusion, Mr. President, natural gas can and should be one of the cornerstones of our national energy policy. S. 1220 offers the opportunity to take a big step to making this a reality. I urge my colleagues to support the natural gas provisions of S. 1220.

BASE COMMUNITY RECOVERY ACT OF 1991

Mr. BREAUX. Mr. President, yesterday I introduced legislation which I think is sorely needed as a result of the economic bombshell that the Department of Defense and the President of the United States dropped on some 23 States. Seventy-eight bases, as a result of an announcement of the President, are recommended for closure or realignment in our national defense structure. It is an economic bombshell because of the devastating economic effects that that decision is going to have on those 78 communities throughout the United States.

The States that are affected include Arkansas, Arizona, California, Colorado, Florida, Idaho, Illinois, Hawaii, Indiana, Louisiana, Maine, Massachusetts, Michigan, Missouri, New Jersey, New Mexico, Ohio, Pennsylvania, Rhode Island, South Carolina, Texas, Virginia, and the State of Washington. That economic bombshell literally means the loss of thousands and thousands of jobs, both direct and indirect, and a loss of hundreds of millions of dollars to these local economies.

The President has approved the report of the Base Closure Commission without any change whatsoever. He simply rubber stamped it. The Congress now has the option, of course, to overturn that decision, an effort that we are going to attempt to do but one that is going to be very difficult, indeed. I certainly plan to vote to disapprove the recommendations of the Commission and of the President when it is presented to the Senate. But, as we all know, it takes an affirmative vote of the Congress to do that. If the President should veto any action by the Congress, it would be a requirement for us that we override that veto, again an act that would be very difficult.

The report, among other things, recommends the closing of England Air Base in the State of Louisiana and also the realignment of the Fort Polk military Army facility, also in Louisiana.

It is interesting, according to a study completed by Louisiana State University, that in Louisiana alone, the combined impact of the closure of this Air Force base and the realignment of the Army base will result in an estimated 12,000 jobs lost immediately, $228 million in reduced sales, and the loss of over $257 million in household income.

This is the result of a closure of an air base which is really, in total size, not that large in comparison to many others. This economic disruption, I think, makes no sense. I believe the Commission made a mistake when they recommended the closure of England Air Base. England is a superior base, which ranked higher than more than half of the 16 Tactical Air Command bases which were evaluated by the Commission itself. Bases that ranked as high as England should not have been closed. The Commission did the recommendation. The Commission did the study. And yet their own study said that this particular base was ranked, as I indicated, much higher than many of the bases we have allowed to stay open.

I do not know ultimately the outcome of the vote to disapprove the President's recommendation. I hope that we will be successful. But if the President's recommendations do prevail, Congress certainly needs to show the communities that we are preparing for the worst-case scenario and that we are ready to support them and give them all the help and assistance that we possibly can. Faced with these potential closures nationwide, we would have to act to ensure that the local communities that will be hardest hit by these closure recommendations will have access to the full range of resources necessary to rebuild their economies.

Mr. President, I was involved in a base closure many years ago as a former staff person. It seemed at that time that the Federal Government just walked away from the community, locked the door, and threw away the key. The local community was left to fend for themselves and decide what their economic fate would be with only a very few tools in their hands to help themselves.

This year should certainly be quite different. We should give them the tools and the assistance, the ideas and the preparations that would be of help to them in order to survive an economic low.

Therefore, Mr. President, I introduced legislation which will give hope to these communities; which will tell them that the Federal Government has not forgotten them, and which will indicate to them that they can be assured that, when they are in their darkest hours and time of greatest need, that the Federal Government will be there to help and to assist and to pave the way for a brighter future.

The bill I introduced yesterday, along with the principal cosponsor, Senator ROTH, will provide tax incentives to businesses that locate on closed or realigned bases; tax incentives to employers who hire former military or civilian employees of a closed or realigned base, and tax incentives to individuals who have lost their jobs, who decide to stay in that closed-base area.

Specifically these provisions, and I will try to outline them briefly, are employer and employee incentives. To encourage businesses to hire these former employees of closed or realigned bases, a tax credit would be given to the employers.

This is not a new concept. This bill would expand the targeted jobs tax credit which we already have, and would merely include as a category of eligible employees, former military and civilian employees of these closed or realigned bases.

A credit of up to $2,400 would be available per employee. The credit would be available to any business anywhere and this provision would enable a small business to reduce its labor costs by hiring these individuals if they fit its requirements.

The second part of our legislation would be to encourage individuals to stay in a base closure area. Instead of just packing up in a U-haul or any type of moving equipment and just leaving, we want to encourage the people to stay in the community.

In order to do that, this legislation would provide that each individual would have his own personal income tax reduced by a wage credit when he takes a new job in a particular area. The bill provides this wage credit to former civilian and military employees of the closed or realigned base who, in fact, do decide to stay in this economic impact region.

This is a term which, of course, is used by the Department of Defense and is easily defined. This wage credit would be a nonrefundable, one-time credit, equal to 10 percent of the wages but no greater than $3,000.

Next, we provide capital incentives because many of these bases have buildings that need repair or renovation in order to be ready for the new use which hopefully will come. Our legislation would reduce the cost of doing this type of work by providing for accelerated depreciation, for building construction, for reconstruction, and also for improvements which would be provided.

The goal is to reduce the overall tax liability of a business in the beginning and the early years of its moving into these closed facilities and, of course, would encourage businesses to look at a closed military base as a prime opportunity and area into which they could move, to take advantage of these incentives and in fact locate and employ people in the area.

Instead of the 31.5 years, the recapture rate on this depreciation would be 21.5 years.

Next, it is obvious that new businesses need new and often very expensive equipment in order to begin a new operation in these closed bases. So our legislation would reduce the cost of this capital by allowing businesses that locate on closed bases to deduct a greater amount of cost of new equipment that would be placed in service each year. Under the current, existing law, it allows the expensing of up to $10,000 a year for new equipment. Our legislation allows businesses to expense 25 percent of the cost of any new equipment that they would place in service in one of these closed military bases.

Notwithstanding a 25-percent limitation, businesses would be able to expense at least $10,000 but no more than $200,000 under our legislation.

Finally, as an assistance to new businesses acquiring the needed revenues to start up in these economically hard-hit areas, our legislation would allow businesses to have access to inexpensive, tax-exempt financing.

The bill expands the small issue development bonds for manufacturing, and also for first-time farmers in that program. Each State's bond cap would be increased by at least $50 million, to enable the issuance of tax-exempt bonds on behalf of entities locating on these closed or realigned bases. The bill also allows for the issuance of new $20 million bonds because current law only authorizes the issuance of $10 million bonds.

These Federal tax benefits should be used in a manner that actually creates jobs and economic activity. Many impacted communities have already established planning commissions to adjust to base closures. I specifically commend the Alexandria, LA, community for doing just that. They are prepared for the worst, while they hope for the very best, and certainly work toward achieving that goal.

Our tax incentives are not the only way to assist communities that have been impacted by these base closure announcements. I have joined Senator ROTH in introducing S. 100, which, when combined with the legislation we introduced yesterday, I think ought to give each community the access to the full range of assistance programs they are going to be needing.

The Roth-Breaux bill essentially changes the way military bases are disposed of. Under current law, if a base is closed in a State, the first priority on who gets that facility is the Federal Government. The Federal Government does not need the help that a local community gets. Under existing law, the Federal Government is considered a priority recipient of that closed base.

Second, if they do not need it or do not want it, then the State comes in and has a claim.

Third, and finally, only after the previous two potential recipients decline the use of those facilities, does the local community come in and have a claim to those facilities. Under the Roth-Breaux legislation we reverse that order and give priority consideration to the local communities who, of course, are the most deeply and most seriously affected area because of the closure.

So, under the Roth-Breaux legislation, S. 1300, the first priority to receiving the use of these facilities would, indeed, be to the local communities, who would be deeded the property in the normal channels for deeding property to the Federal Government. I think that makes a major improvement over the current system.

Mr. President, I have been asked by others as to what the cost of this legislation would be and, obviously, there is a cost attached. Yesterday we made a request to the Joint Tax Committee to give us a revenue estimate of how much this legislation would cost. I am awaiting a response from the Joint Tax Committee and look forward to receiving their information.

But it is obvious that no matter how much it costs to give these tax incentives, tax credits to individuals who are adversely affected, those costs will be offset by the amount of revenues that would be lost if we were to do nothing.

As an example I cited the cost estimated just with one base in Louisiana. When you lose 12,000 jobs and you impact a local community by the loss of $228 million in reduced sales and the loss of over $257 million in household income, those are real costs to the Federal Government. If 12,000 people lose their jobs, Mr. President, 12,000 additional people do not pay their taxes and the Federal Government loses revenues as a result of people being unemployed.

Therefore, any cost of providing tax incentives will obviously be reduced by generating new jobs and growth and economic development, thereby generating more taxes to be paid to the Federal Government.

So, I think it is a wise investment in the economic security of this country. It is a wise investment, assuring all of these citizens who, over the years, contributed to the national defense of this country by working in and around military bases, that when those bases are no longer needed the Federal Government will not walk away from these cities, these towns, these communities and these individuals and say only thank you very much and do nothing to help them.

If we can find money to help the Kurds, if we can find the money to help Poland, if we can find the money to help many foreign countries around the world and, in most cases, rightfully so, certainly in the time of American needs in communities, American citizens who are deeply affected economically and personally by these closures that our Government has an obligation and a responsibility to be as generous to our own citizens as we have found in the past to be generous to foreign nations when they have suffered economic dislocations.

I commend my colleagues to the consideration of both pieces of legislation: First, S. 1498, the Breaux-Roth tax incentive package, and second, the Roth-Breaux bill on the restructuring of how properties will be disposed of, S. 1300.

Mr. President, I ask unanimous consent that a copy of the bill, S. 1498, be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1498

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the "Base Community Recovery Act of 1991".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to or repeal of a section or other provision, such amendment or repeal shall be treated as made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 2. TAX INCENTIVES RELATING TO FEDERAL MILITARY BASE CLOSURES AND REALIGNMENTS.

(a) IN GENERAL.—Chapter 1 (relating to normal tax and surtax rules) is amended by inserting after subchapter T the following new subchapter:

"Subchapter U—Tax Incentives Relating to Closed Federal Military Installations

"Part I. Definitions.

"Part II. Hiring incentives.

"Part III. Investment incentives.

"PART I—DEFINITIONS

"Sec. 1391. Definitions.

"SEC. 1391. DEFINITIONS.

"(a) APPLICABLE FEDERAL MILITARY INSTALLATION.—For purposes of this subchapter, the term 'applicable Federal military installation' means a Federal military installation or other facility which is closed or realigned under—

"(1) the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note),

"(2) title II of the Defense Authorization Amendments and Base Closure and Realignment Act (10 U.S.C. 2687 note), or

"(3) section 2687 of title 10, United States Code.

"(b) ECONOMIC IMPACT REGION.—For purposes of this subchapter—

"(1) IN GENERAL.—The term 'economic impact region' means any area which is located in a county or other political subdivision of a State any portion of which is located within 50 miles of the boundaries of an applicable Federal military installation.

"(2) ADDITIONAL AREAS.—The Secretary may, after consultation with the Secretary of Defense, designate any area not described in paragraph (1) as part of an economic impact region if the Secretary determines such area to be adversely impacted by the closing or realignment of an applicable Federal military installation.

"(c) TERMINATED EMPLOYEE.—For purposes of this subchapter—

"(1) IN GENERAL.—The term 'terminated employee' means an individual who is certified, under procedures similar to the procedures described in section 51(d)(16), as being an individual (whether or not a Federal employee)—

"(A) who was employed on an applicable Federal military installation, and

"(B) whose job was terminated by reason of the closing or realignment of such installation.

"(2) LIMITATION.—An individual shall not be treated as a terminated employee with respect to any job termination after the later of—

"(A) the close of the 2nd calendar year following the calendar year in which the announcement of the job termination occurs, or

"(B) the close of the 1-year period beginning with the date on which the employee first begins work for any employer after the job termination.

"PART II—HIRING INCENTIVES

"Sec. 1392. Targeted jobs credit.

"Sec. 1393. Terminated employee credit.

"SEC. 1392. TARGETED JOBS CREDIT.

"For purposes of section 38, a terminated employee shall be treated as a member of a targeted group for purposes of determining the targeted jobs credit under section 51.

"SEC. 1393. TERMINATED EMPLOYEE CREDIT.

"(a) IN GENERAL.—In the case of any terminated employee, there shall be allowed as a credit against the tax imposed by this chapter for any taxable year an amount equal to 10 percent of the qualified wages of such employee for the taxable year.

"(b) QUALIFIED WAGES.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified wages' means wages paid by an employer to an employee if—

"(A) at least 90 percent of the employee's services for the employer during the taxable year are directly related to the conduct of the employer's trade or business within an applicable Federal military installation or economic impact region, or

"(B) at least 50 percent of the services of the employee for the employer during the taxable year are performed within such installation or region.

"(2) LIMITATIONS.—

"(A) 1-YEAR LIMIT.—The term 'qualified wages' includes, with respect to any individual, only wages attributable to services rendered during the 1-year period beginning with the day the individual first begins work for any employer after becoming a terminated employee.

"(B) DOLLAR AMOUNT.—The term 'qualified wages' for any taxable year shall not exceed the excess (if any) of—

"(i) $30,000, over

"(ii) the amount taken into account as qualified wages under this section for any preceding taxable year.

"(C) FEDERAL GOVERNMENT SERVICES.—The term 'qualified wages' does not include wages paid for services performed as an employee of the Federal Government, or any agency or instrumentality thereof.

"(3) WAGES.—The term 'wages' has the same meaning as when used in section 51 (without regard to subsection (c)(4) thereof).

"(c) LIMITATIONS.—

"(1) PHASE-OUT.—The amount of the qualified wages of a taxpayer under subsection (a)

for any taxable year shall be reduced (but not below zero) by $1 for each $1 by which the employee's total wages (whether or not constituting qualified wages) exceed $60,000.

"(2) REDUCTION OF CREDIT FOR TAXPAYERS SUBJECT TO ALTERNATIVE MINIMUM TAX.—The credit allowed under subsection (a) for any taxable year shall be reduced by the amount (if any) of the tax imposed on such taxpayer for the taxable year under section 55.

"(3) SELF-EMPLOYED INDIVIDUALS ELIGIBLE.—For purposes of this section, the term 'employee' includes an employee described in section 401(c)(1) (relating to self-employed individuals).

"(d) SPECIAL RULES.—For purposes of this section—

"(1) CREDIT TREATED AS NONREFUNDABLE PERSONAL CREDIT.—For purposes of this title, the credit allowed under subsection (a) shall be treated as a credit allowed under subpart A of part IV of subchapter A of this chapter.

"(2) CONTROLLED GROUPS.—All employers treated as a single employer under subsection (a) or (b) of section 52 shall be treated as a single employer for purposes of this section.

"PART III—INVESTMENT INCENTIVES

"Sec. 1394. Capital incentives.

"Sec. 1395. Financing incentive.

"SEC. 1394. CAPITAL INCENTIVES.

"(a) REDUCTION IN RECOVERY PERIOD FOR NONRESIDENTIAL REAL AND RESIDENTIAL RENTAL PROPERTY.—

"(1) IN GENERAL.—For purposes of section 168, the applicable recovery period—

"(A) for any qualified nonresidential real property shall be 21.5 years, and

"(B) for any qualified residential rental property shall be 17.5 years.

"(2) QUALIFIED PROPERTY.—For purposes of paragraph (1), the term 'qualified nonresidential real property' or 'qualified residential rental property' means nonresidential real property (as defined in section 168(e)(2)(B)) or residential rental property (as defined in section 168(e)(2)(A)), whichever is applicable, which—

"(A) is located on an applicable Federal military installation,

"(B) is used by the taxpayer predominantly in the active conduct of a trade or business on such installation, and

"(C) is placed in service by the taxpayer during the 15-year period beginning on the date of the announcement of the closure or realignment of such installation.

"(b) INCREASE IN AMOUNT WHICH MAY BE EXPENSED.—

"(1) IN GENERAL.—In the case of qualified section 179 property—

"(A) the limitation under subsection (b)(1) of section 179 with respect to such property shall be equal to the amount determined under paragraph (2), and

"(B) subsection (b)(2) of section 179 shall not apply with respect to such property.

"(2) AMOUNT WHICH MAY BE EXPENSED.—For purposes of paragraph (1)(A), the amount under this paragraph shall be equal to the excess (if any) of—

"(A) the lesser of—

"(i) 25 percent of the cost of the qualified section 179 property (or, if greater, $10,000), or

"(ii) $200,000, over

"(B) the cost of section 179 property for the taxable year which is not qualified section 179 property.

"(3) QUALIFIED PROPERTY.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified section 179 property' means section 179 property which is used by the taxpayer predominantly in the active conduct of a trade or business on an applicable Federal military installation.

"(B) EXCEPTIONS.—The term 'qualified section 179 property' does not include—

"(i) property which is used or located outside of an applicable Federal military installation on any regular basis, or

"(ii) property the original use of which commences with the taxpayer after the close of the 15-year period beginning on the date of the announcement of the closing or realignment of such installation.

"(C) OTHER TERMS.—The terms 'cost' and 'section 179 property' have the meanings given such terms by section 179.

"(c) RELATED PARTIES.—

"(1) IN GENERAL.—No property shall be treated as qualified nonresidential real property, qualified residential rental property, or qualified section 179 property if it is acquired (directly or indirectly) by the taxpayer from a person who is related to the taxpayer as of the time of the acquisition.

"(2) RELATED PERSON.—For purposes of paragraph (1), a person (hereafter in this subparagraph referred to as the 'related person') is related to any other person if—

"(A) the related person bears a relationship to such other person specified in section 267(b) or 707(b)(1), or

"(B) the related person and such other person are engaged in trades or businesses under common control (within the meaning of subsections (a) and (b) of section 52).

For purposes of subparagraph (A), '10 percent' shall be substituted for '50 percent' in applying sections 267(b)(1) and 707(b)(1). In the case of the acquisition of any property by any partnership which results from the termination of another partnership under section 708(b)(1)(B), the determination under this paragraph of whether the acquiring partnership is related to the other partnership shall be made immediately before the event resulting in such termination.

"(d) SPECIAL RULES FOR RECAPTURE IN CASE OF DISPOSITIONS, ETC.—

"(1) IN GENERAL.—If, during any taxable year, property which is qualified nonresidential real property, qualified residential rental property, or qualified section 179 property—

"(A) is disposed of other than to a person who is to continue the use of such property as qualified property, or

"(B) in the case of qualified section 179 property, is removed from the applicable Federal military installation, or otherwise ceases to be used in the active conduct of a trade or business on such installation,

the tax under this chapter for such taxable year shall be increased by the amount described in paragraph (2).

"(2) AMOUNT OF INCREASE.—The increase in tax under paragraph (1) shall equal the amount which bears the same ratio to the aggregate decrease in the tax for all prior taxable years which resulted solely from the application of this section to the property as the number of taxable years that the property was held by the taxpayer bears to the applicable recovery period for such property under section 312(k).

"SEC. 1395. FINANCING INCENTIVES.

"(a) IN GENERAL.—For purposes of part IV of subchapter B of chapter 1—

"(1) in applying section 144—

"(A) subsection (a)(12) (relating to termination dates) shall not apply to any qualified base closure bond, and

"(B) for purposes of subsection (a)(4)(A)(ii) thereof, capital expenditures of not to exceed $10,000,000 shall not be taken into account with respect to any issue described in subsection (b), and

"(2) the limitation under section 146(d) for any State for any calendar year shall be increased by the lesser of—

"(A) an amount equal to $5 multiplied by the population of the State which resides within all applicable Federal military installations and economic impact regions within the State (or, if greater, $50,000,000), or

"(B) the aggregate face amount of all qualified base closure bonds issued during such calendar year.

"(b) QUALIFIED BASE CLOSURE BOND.—For purposes of this section, the term 'qualified base closure bond' means any bond which is issued as part of an issue 95 percent or more of the net proceeds of which are to be used to provide facilities which—

"(1) are to be located on an applicable Federal military installation,

"(2) are to be used in the active conduct of a trade or business on such installation, and

"(3) are to be placed in service before the close of the 15-year period beginning on the date of the announcement of the closing or realignment of the applicable Federal military installation."

(b) CONFORMING AMENDMENT.—The table of subchapters for chapter 1 is amended by inserting after the item relating to subchapter T the following new item:

"Subchapter U. Tax incentives relating to closed Federal military installations."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

BASE CONVERSION

Mr. ROTH. Mr. President, today America faces an opportunity that has eluded it for the more than 50 years. Today, in the twilight of the cold war, we are able to redirect, in a significant way, the priorities governing how we use Americans' tax dollars.

With careful attention to Government's role and responsibilities concerning social programs, we can turn both our attention and increased resources to strengthening America's competitive economic ability, our education, infrastructure, our families and individual sense of self-reliance. With well-defined policies governing our relationships abroad, with strong alliances, and the maintenance of a sound defense, we can begin to prepare for an era of peace—a golden era marked by personal empowerment and prosperity.

As we redirect resources, however, we are going to have to make difficult decisions—decisions like base closings and conversions—decisions that will be uncomfortable but necessary. The mathematics are plain: a reduction in military spending and personnel equals a reduction in bases.

However, Mr. President, there are measures that this body can take to reduce the economic consequences to individuals, families and communities as these bases are closed. Last month I offered with Senator BREAUX legislation that will turn challenges posed by base

closings into an opportunity for those affected. In short, the legislation turns the closed bases over to the communities free of charge, and allows the individuals, families, and local business community to direct and receive the economic potential of what in most cases is prime real estate.

The approached envisioned by the Roth-Breaux base conversion bill has now been embraced by the Base Closure and Realignment Commission which only 2 weeks ago issued its report to the President. The Commission's conclusion is that:

Reusing former military base property offers communities the best opportunity to rebuild their economies.

And this is exactly what Roth-Breaux offers—it offers these communities first choice of the installation.

For example, a community that stands to lose an air base will be able to convert it into a much needed airport, rather than have the property go first to the Federal Government to be used as a prison or a nuclear waste site. Giving communities the first right to lands in question will facilitate their economic rebound.

However, Mr. President, there is one more important step that Congress can take to improve the opportunity created by base conversions. Toward this end, Senator BREAUX and I have introduced legislation, S. 1498, that will provide tax incentives to encourage individuals who have been adversely affected by a base closing to participate in the conversion process and the emergence of the subsequent industry or commercial use of the property.

For the communities involved, our legislation provides the State and local governments the ability to issue industrial development bonds, or IDB's, of a tax-free basis so the local governments increase their ability to attract businesses to the areas in transition. For the businesses, our bill provides tax incentives for them to locate and expand their operations in these areas. And for individuals, our proposal offers a tax credit to offset wages lost by a base closing.

These incentives include wage credits, faster depreciation, and expensing provisions. Combined, these are strong market incentives for businesses to both hire area workers who have lost their jobs and to invest their capital in the area to provide new growth and new jobs. Coupled with the transfer of land to the community, the potential economic loss from closing a base instead becomes fertile ground for economic growth.

I am a believer in the market economy, and I feel this bill to provide tax credits and incentives for development is the best method by which to help these areas recover from the economic effects of losing a military installation. Along with the base conversion bill, these measures will allow us to take the necessary steps toward meeting our Nation's changing needs and realizing the full benefits that are possible in the post-cold-war era.

Mr. ROTH. I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DANFORTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CLARENCE THOMAS—A REMARKABLE MAN

Mr. DANFORTH. Mr. President, as the Senate prepares to take up the confirmation of Judge Clarence Thomas, Senators will be considering not only the career of this remarkable man, but his entire person. Senators will want to know both what he has done and who he is.

One measure of who he is is what he has said about his own life, about his experiences and what they have meant to him as he has developed his own outlook on the world. I have had the remarkable opportunity of accompanying Judge Thomas on each of his visits to Members of the Senate. I wish I could capture the warmth of the man and the moving vignettes he has described from his own life's history.

Fortunately, the New York Times included on its op-ed page on July 17, 1991, a speech by Clarence Thomas at Savannah State College.

I commend this speech to the Senate as an example of how Clarence Thomas looks at his own life and at the world around him.

Mr. President, I ask unanimous consent that the op-ed piece from the New York Times be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, July 17, 1991]

CLIMB THE JAGGED MOUNTAIN

(By Clarence Thomas)

(Following are excerpts from a commencement speech that Clarence Thomas, President Bush's nominee to the Supreme Court, gave at Savannah State College on June 9, 1985.)

I grew up here in Savannah. I was born not far from here (in Pinpoint). I am a child of those marshes, a son of this soil. I am a descendant of the slaves whose labors made the dark soil of the South productive. I am the great-great-grandson of a freed slave, whose enslavement continued after my birth. I am the product of hatred and love—the hatred of the social and political structure which dominated the segregated, hate-filled city of my youth, and the love of some people—my mother, my grandparents, my neighbors and relatives—who said by their actions, "You can make it, but first you must endure."

You can survive, but first you must endure. You can live, but first you must endure. You must endure the unfairness. You must endure the hatred. You must endure the bigotry. You must endure the indignities.

I stand before you as one who had the same beginning as yourselves—as one who has walked a little farther down the road, climbed a little higher up the mountain. I come back to you, who must now travel this road and climb this jagged, steep mountain that lies ahead. I return as a messenger—a front-runner, a scout. What lies ahead of you is even tougher than what is now behind you.

That mean, callous world out there is still very much filled with discrimination. It still holds out a different life for those who do not happen to the right race or the right sex. It is a world in which the "haves" continue to reap more dividends than the "have-nots."

You will enter a world in which more than one-half of all black children are born primarily to youthful mothers and out of wedlock. You will enter a world in which the black teenage unemployment rate as always is more than double that of white teenagers. Any discrimination, like sharp turns in a road, becomes critical because of the tremendous speed at which we are traveling into the high-tech world of a service economy.

There is a tendency among young, upwardly mobile, intelligent minorities to forget. We forget the sweat of our forefathers. We forget the blood of the marchers, the prayers and hope of our race. We forget who brought us into this world. We overlook who put food in our mouths and clothes on our backs. We forget commitment to excellence. We procreate with pleasure and retreat from the responsibilities of the babies we produce.

We subdue, we seduce, but we don't respect ourselves, our women, our babies. How do we expect a race that has been thrown into the gutter of socio-economic indicators to rise above these humiliating circumstances if we hide from responsibility for our own destiny?

The truth of the matter is we have become more interested in designer jeans and break dancing than we are in obligations and responsibilities.

We have lost something. We look for role models in all the wrong places. We refuse to reach back in our not too distant past for the lessons and values we need to carry us into the uncertain future. We ignore what has permitted blacks in this country to survive the brutality of slavery and the bitter rejection of segregation. We overlook the reality of positive values and run to the mirage of promises, visions and dreams.

I dare not come to this city, which only two decades ago clung so tenaciously to segregation, bigotry and I remember businesses on East Broad and West Broad that were run in spite of bigotry. It is said that we can't learn because of bigotry. But I know for a fact that tens of thousands of blacks were educated at historically black colleges, in spite of discrimination. We learned to read in spite of segregated libraries. We built homes in spite of segregated neighborhoods. We learned how to play basketball (and did we ever learn!), even though we couldn't go to the N.B.A.

Over the past 15 years, I have watched as others have jumped quickly at the opportunity to make excuses for black Americans. It is said that blacks cannot start businesses because of discrimination. But Jim Crowism, to convince you of the fairness of this society. My memory is too precise, my recollection too keen, to venture down that path of self-delusion. I am not blind to our history—nor do I turn a deaf ear to the pleas and cries

of black Americans. Often I must struggle to contain my outrage at what has happened to black Americans—what continues to happen—what we let happen and what we do to ourselves.

If I let myself go, I would rage in the words of Frederick Douglass: "At a time like this, scorching irony, not convincing argument, is needed. Oh! Had I ability, and could reach the nation's ear, I would today pour out a fiery stream of biting ridicule, blasting reproach, withering sarcasm and stern rebuke. For it is not light that is needed, but fire; it is not the gentle shower, but thunder. We need the storm, the whirlwind and the earthquake."

I often hear rosy platitudes about this country—much of which is true. But how are we black Americans to feel when we have so little in a land with so much? How is black America to respond to the celebration of the wonders of this great nation?

In 1964, when I entered the seminary, I was the only black in my class and one of two in the school. A year later, I was the only one in the school. Not a day passed that I was not pricked by prejudice.

But I had an advantage over black students and kids today. I had never heard any excuses made. Nor had I seen my role models take comfort in excuses. The women who worked in those kitchens and waited on the bus knew it was prejudice which caused their plight, but that didn't stop them from working.

My grandfather knew why his business wasn't more successful, but that didn't stop him from getting up at 2 in the morning to carry ice, wood and fuel oil. Sure, they knew it was bad. They knew all too well that they were held back by prejudice. But they weren't pinned down by it. They fought discrimination under W. W. Law [a Georgia civil rights leader] and the N.A.A.C.P. Equally important, they fought against the awful effects of prejudice by doing all they could do in spite of this obstacle.

They could still send their children to school. They could still respect and help each other. They could still moderate their use of alcohol. They could still be decent, law-abiding citizens.

I had the benefit of people who knew they had to walk a straighter line, climb a taller mountain and carry a heavier load. They took all that segregation and prejudice would allow them and at the same time fought to remove these awful barriers.

You all have a much tougher road to travel. Not only do you have to contend with the ever-present bigotry, you must do so with a recent tradition that almost requires you to wallow in excuses. You now have a popular national rhetoric which says that you can't learn because of racism, you can't raise the babies you make because of racism, you can't get up in the mornings because of racism. You commit crimes because of racism. Unlike me, you must not only overcome the repressiveness of racism, you must also overcome the lure of excuses. You have twice the job I had.

Do not be lured by sirens and purveyors of misery who profit from constantly regurgitating all that is wrong with black Americans and blaming these problems on others. Do not succumb to this temptation of always blaming others.

Do not become obsessed with all that is wrong with our race. Rather, become obsessed with looking for solutions to our problems. Be tolerant of all positive ideas; their number is much smaller than the countless number of problems to be solved. We need all the hope we can get.

Most importantly, draw on that great lesson and those positive role models who have gone down this road before us. We are badgered and pushed by our friends and peers to do unlike our parents and grandparents—we are told not to be old-fashioned. But they have weathered the storm. It is up to us now to learn how. Countless hours of research are spent to determine why blacks fail or why we commit crimes. Why can't we spend a few hours learning how those closest to us have survived and helped us get this far?

As your front-runner, I have gone ahead and taken a long, hard look. I have seen two roads from my perch a few humble feet above the madding crowd. On the first, a race of people is rushing mindlessly down a highway of sweet, intoxicating destruction, with all its bright lights and grand promises constructed by social scientists and politicians. To the side, there is a seldom used, overgrown road leading through the valley of life with all its pitfalls and obstacles. It is the road—the old-fashioned road—traveled by those who endured slavery, who endured Jim Crowism, who endured hatred. It is the road that might reward hard work and discipline, that might reward intelligence, that might be fair and provide equal opportunity. But there are no guarantees.

You must choose. The lure of the highway is seductive and enticing. But the destruction is certain. To travel the road of hope and opportunity is hard and difficult, but there is a chance that you might somehow, some way, with the help of God, make it.

Mr. DANFORTH. In addition to the nominee's own reflections about himself, it is informative to see what others who have known him in the past have said about him. One recent example is the op-ed piece in the Washington Post on July 16, 1991, by my longstanding legislative director and staff director of the Senate Commerce Committee Allen Moore. Allen Moore and Clarence Thomas were colleagues in my Senate office from 1979 to 1981.

Mr. President, I ask unanimous consent that a copy of the op-ed piece written by Allen Moore be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, July 16, 1991]

THE CLARENCE THOMAS I KNOW

(By Allen Moore)

I have been reading and hearing a lot about Clarence Thomas these days. Some of it makes me wonder: Can this be the same Clarence Thomas who worked for me in Jack Danforth's office 12 years ago and has been my friend ever since?

The man I read about has been called an "arch-conservative" who has "forgotten where he came from," who believes "affirmative action is like heroin," whose seven years as chairman of the Equal Employment Opportunity Commission were "the most retrograde in its history," whose first marriage ended in a "messy divorce that deserves scrutiny," whose "opposition to abortion is well-known," whose "allegiance to the pope" should be examined, whose actions are "guided by political calculation," and who is "harshly judgmental and self-righteous rather than compassionate and empathetic."

The Clarence Thomas I know is a caring, decent, honest bright, good-humored, modest and thoughtful father, husband and public servant who has already come farther in 43 years than most of us will in a lifetime.

The president did his nominee no favor when he said race was not a factor in the nomination. Of course it was, and Thomas readily admits it, just as he acknowledges that race played a role in his selection for other jobs along the way. He has never denied his indebtedness to, or admiration for, those, such as Justice Thurgood Marshall, who helped open such doors. He does not blindly oppose the notion of taking race into consideration for hiring, promotion or admissions decisions. What he does oppose are rigid numerical goals and quotas, which he considers divisive and unfair.

When he gets a chance to fully explain his views in Senate hearings, he will challenge his listeners to think beyond platitudes and conventional orthodoxy. Clarence Thomas has always supported the idea of giving preferential treatment to the truly disadvantaged, especially minorities, rather than to those from middle- or upper middle-class backgrounds who happen to be members of a targeted minority group. To do otherwise risks stigmatizing those favored—to make it appear as if they are incapable of competing fairly. It also can put the unprepared in situations where they are destined to fail. "God helps those who help themselves," Clarence might say, encouraging self-help and self-reliance. Martin Luther King Jr., Malcolm X and Jesse Jackson have stressed such themes.

Regarding his feelings about the pope, I believe Clarence stopped being a practicing Catholic when he left the seminary almost 25 years ago. In recent years, he has attended a Methodist church, a Christian church and, most recently, an Episcopal church.

I don't know how he feels about abortion, but I would be very surprised if he didn't have an open mind on *Roe* v. *Wade*. Many liberals and conservatives on both sides of abortion issue acknowledge the vulnerability of that decision on purely legal grounds, but I personally wouldn't bet the ranch on how he would come down on the issue.

I know something about Thomas's first marriage because I spent many hours talking with him as it broke apart. He was tormented both about breaking his wedding vows and about the impact of the divorce on his young son. He sought me out for advice because I was a divorced father with two well-adjusted children. His divorce was handled amicably, with Clarence given undisputed primary custody of his son. Both parents have played a major role in his upbringing, and all parties have great respect for each other.

Clarence's record as EEOC chairman deserves close scrutiny, just as it did when he was renominated and reconfirmed for a second term as chairman, and just as it did when he was nominated and confirmed to his seat on the D.C. Circuit Court of Appeals. The record will speak for itself, but someone should also look inside the agency to find out how people feel about Thomas the man and the leader.

Evan Kemp, his successor as chairman, marvels at what Thomas did with a historically underfunded agency that saw its budget cut nine out of 10 times in the 1980s. (Usually Congress cut the president's request, then beats up the agency for its budget-related shortcomings.) Clarence Thomas inherited a poorly managed, dispirited agency whose employees were embarrassed to admit where they worked. His legacy, according to Kemp, is that employees are now proud to

work at the EEOC and even named the new headquarters building after him. Nonetheless, says Kemp, "Clarence won't get the credit that is his due; I will." People throughout the agency sing Thomas's praises—his dedication, his professional standards, his extraordinary sensitivity to and support of the "little people," and his inspiration to employees at all levels.

The suggestion that his actions have been politically motivated is laughable. This is not a political animal. His passionate, behind-the-scenes battles with the White House and Justice Department conservatives during the Reagan years were hardly politic. In addition, several times through the years, I strongly advised him to approach his detractors both on and off the Hill. "They attacked me without knowing the facts," he would say, "and it would be hypocritical to approach them." This is a man who advanced in a political environment in spite of, not because of, his political skills.

Perhaps the most absurd charge leveled at Thomas is that "he forgot where he came from." Thomas's professional and personal life, not to mention his conscience, wouldn't permit him to forget his roots if he wanted to. Neither would the world around him. After lunch a few weeks ago, he and I were strolling around downtown Washington. He suddenly realized he was late for an appointment and asked me (I'm white) to hail him a cab.

"I have trouble getting a cab downtown, and it's virtually impossible in Georgetown," he said, jumping into the taxi I had flagged down as the driver mouthed an obscenity in my direction.

Mr. DANFORTH. Mr. President, I suggest that absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The bill clerk proceeded to call the roll.

The PRESIDING OFFICER. Without objection, the quorum call is dispensed with.

THE 1991 MID-YEAR REPORT

The mailing and filing date of the 1991 Mid-Year Report required by the Federal Election Campaign Act, as amended, is Wednesday, July 31, 1991. All principal campaign committees supporting Senate candidates must file their reports with the Senate Office of Public Records, 232 Hart Building, Washington, DC 20510–7116. Senators may wish to advise their campaign committee personnel of this requirement.

The Public Records Office will be open from 8 a.m. until 9 p.m. on the filing date for the purpose of receiving these filings. In general, reports will be available 24 hours after receipt. For further information, please do not hesitate to contract the Office of Public Records on (202) 224–0322.

TRIBUTE TO ARIZONANS WHO LOST THEIR LIVES IN THE PERSIAN GULF WAR

Mr. DECONCINI. Mr. President, Arizona has a long and distinguished history of military service by its citizens since territorial times. Throughout their history, Arizonans have proudly and unselfishly served from San Juan Hill to the Argonne, from Anzio to Midway, from Da Nang to Hue, in Grenada, in Panama, and most recently, in the conflict in the Persian Gulf. In each of these eras, Arizonans have made the ultimate sacrifice of their lives defending the ideals held dear by this Nation.

We can all rejoice in the swift military victory in the gulf with extremely low casualties, but we still mourn the loss of life by any American in service to his or her country. Words are of little comfort to grieving mothers, fathers, sons, daughters, wives, husbands or children. It is a stark fact that the loved family member is no longer with us. Only time can bring a measure of healing and acceptance.

While my heart is heavy with sadness, I am honored to recognize the five Arizonans who in the oft quoted and famous words of Abraham Lincoln gave "the last full measure of devotion—their lives—to preserve freedom."

Marine Lance Cpl. James B. Cunningham, who died in a tragic gunshot accident in Saudi Arabia;

Marine Pvt. Michael A. Noline, a member of the San Carolos Apache Tribe, who died in a raid near the Kuwaiti border;

Marine Lance Cpl. Eliseo Felix, an Hispanic youth who proudly served in the Marine Corps;

Marine Sgt. Aaron Pack, who was killed by enemy fire as United States troops swept into Kuwait to liberate that oppressed nation; and

Sgt. Dorothy Fails, a member of the Arizona National Guard's 1404th Transportation Company, who died in Saudi Arabia while performing her duty as a driver.

Our valiant troops can never be adequately praised or commended. They came from widely diverse backgrounds but were joined in a common cause—the defense of freedom—and were willing to sacrifice their lives in that pursuit. In death, these modern day patriots join the illustrious company of the heroes of past conflicts. These men and women served in the proudest tradition of those who have defended freedom since the birth of our Nation more than 200 years ago. I salute them and I extend my sincerest sympathy to their families and friends in this time of grief and loss.

REPRESENTATIVE JOE MOAKLEY SPEAKS AT THE UNIVERSITY OF CENTRAL AMERICA

Mr. DECONCINI. Mr. President, I read with great interest a speech delivered by Representative JOE MOAKLEY at the University of Central America in San Salvador, El Salvador on July 1, 1991. As you may recall, I have worked with Representative MOAKLEY for many years on the issue of providing temporary protected status to Salvadoran refugees here in the United States. I have strongly advocated this issue because I believe that we in this country have a responsibility to the victims of a civil war in which the U.S. Government has played a significant role. Representative MOAKLEY and I were finally able to see this legislation passed last year, and I again wish to thank my colleagues for supporting this humanitarian measure.

The speech, which I ask unanimous consent to be printed in the RECORD at the conclusion of my remarks, is a sensitive and moving statement on the need for true peace and justice for the long-suffering people of El Salvador. We in this body may disagree about the methods that have been used to influence the Salvadoran civil war, but we are of one mind when it comes to the fervent hope that the two sides to the conflict can settle their differences peacefully.

Representative MOAKLEY speaks with conviction, from his role as chairman of the Speaker's Task Force on El Salvador, about the significance of the case of the assassination of the Jesuit priests and their companions in November 1989. He states, and rightly so, that while we in the United States want to see justice achieved in this case, it is more important that the people of El Salvador know that justice will prevail and those who break the law, whatever their station in life, will be held accountable for their actions.

I applaud Representative MOAKLEY for his continued leadership on this important issue, and his balanced approach to it. I highly recommend his speech to my colleagues in the Senate.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

REMARKS OF REPRESENTATIVE JOE MOAKLEY

I. INTRODUCTION

I am honored to be here at this historic university and grateful for the kind invitation to speak to all of you this afternoon.

I am especially grateful to Father Estrada for his very flattering introduction. He represents the very best in the Jesuit tradition and has done a remarkable job of presiding over this very great university during these very difficult times.

I also want to thank Father Michael Czerny and my dear friend, Father Charlie Beirne, for their assistance in arranging today's speech. I am delighted, as well, to participate in a program with Father Jon Sobrino who has always been a strong defender of social justice.

And I want to thank Father Rodolfo Cardenal who has bravely agreed to translate my remarks. I just hope his Spanish has a Boston accent.

I want to say at the outset that I am not one of those fellows who runs around the world telling other people how to run their countries. I have never set out to change the world; I'll be happy if I can make things a little better for the people I represent back home in Massachusetts.

El Salvador represents my first major effort in the field of international affairs and judging from the reviews I've received in some of the more conservative Salvadoran newspapers, there are some people out there who hope it will by my last.

As you may know, I am the Chairman of a special task force that was appointed by the Speaker of the U.S. House of Representatives to monitor the investigation into the terrible murders that took place on this campus on November 16, 1989. Members of the task force have not tried to investigate the case ourselves, but we have tried to monitor the progress of the investigation conducted by the authorities in this country.

Over the past year, our task force has prepared one major report and a number of shorter reports discussing the investigation. These efforts would not have been possible without the help of Salvadorans from many walks of life and from individuals in the U.S. Embassy, especially the U.S. Ambassador to El Salvador, William Walker, who I believe is a very good man who wants very much to see justice done in this case.

I am conscious, as I stand here, that past relations between the people of El Salvador and the Government of the United States have not always been smooth.

A former political leader of your country once said that El Salvador has endured during this century "fifty years of lies, fifty years of injustice, (and) fifty years of frustration." El Salvador's history, he said, is the history "of a people starving to death, living in misery. For fifty years, the same people have had all the power, all the money, all the jobs, all the opportunities."

And throughout those fifty years, I am sad to say that all the people of El Salvador heard from the United States was silence.

It was not until ten years ago, after the revolution in Nicaragua, that the U.S. Government began to pay serious attention to El Salvador. Because even the Reagan Administration understood that your country, with its history of social inequality, its corrupt and brutal military and its active and militant left was as logical a candidate for revolution as this hemisphere has ever seen.

And so, for the past ten years, America has provided more than $4 billion in economic and military aid to El Salvador. There are some in the Congress of the United States who have fully supported that aid. Others, such as myself, have expressed serious concern about the wisdom of providing large amounts of aid to the Salvadoran military.

II. IMPORTANCE OF THE JESUITS CASE

Those concerns were validated on the morning of November 16, 1989.

Obviously, the horrible murders at this campus were not the first in El Salvador nor, tragically, would they be the last. Tens of thousands have died as a result of political violence over the past decade. It makes no difference in the eyes of God, and it should make no difference in our own eyes, whether a victim of that violence is famous or unknown, rich or poor, a partisan of the left or right or of no side at all.

Every one of us is entitled to our rights; and every one of us is entitled to justice when those rights are violated.

It is not on abstract human or moral grounds, then, that so many of us have come to attach so much importance to discovering the truth about the murders that took place here at the UCA.

We are moved, instead, by the friendship that so many of us had for one or another of the murdered priests; we are moved by the respect we felt for the courage of these men in their pursuit of social justice and peace; we are moved by the innocence and suffering of Elba Julia Ramos and her daughter Celina; and we are moved by the brutality and cowardice of the murders themselves—carried out, not in the heat of some battle—but in cold blood, in the dead of night, by dozens of well-armed and well-trained troops.

We are moved by these murders and we are determined that unlike the cases of Archbishop Romero, Fr. Rutilio Grande and so many others; at least this one crime against God and humanity will not go unpunished.

In this one case, we demand the truth. In this case, we insist that the justice system do its job. In this one case, we demand that the Government and the armed forces of El Salvador live up to their claims to respect democracy and the law.

Opponents and critics of the government have been picked up, questioned, tortured and murdered in this country for years. Now, in the course of peace talks, they are asked to trust the government, to trust the armed forces, to trust the political system. It should not be too much to expect that government, those armed forces and that system to be worthy of trust in this one case.

For if El Salvador, with all the international pressure, cannot bring those who murdered the Jesuits to justice, how can anyone expect justice the next time a labor leader or a teacher or a campesino is killed? How can we expect those who have seen their relatives and neighbors kidnapped and tortured and murdered to lay down their arms unless they can do so in an atmosphere of justice and law? How can we expect an end to the violence of the left unless there is an end to the impunity from prosecution of the right?

That is why finding the truth in the Jesuits' case is so important; not because it pleases the United States, England, Spain or some other foreign country; but because finding that truth is essential for El Salvador to live at peace with itself.

III. STATUS OF THE CASE

As you know, eight members of the armed forces, including one Colonel, have been charged with the murders. Two others have been charged with destroying evidence. Four others have been charged with perjury.

I believe the President of the Supreme Court, Dr. Mauricio Gutierrez Castro, and Judge Ricardo Zamora deserve great credit for bringing the case to this point. The Judge has done his best to build a strong case against the accused. And he has done his best to investigate the possible involvement of others in ordering or participating in the crimes.

The role of the military is another story.

General Ponce has said over and over again that these murders should be considered the acts of individuals and not the responsibility of the armed forces as an institution. General Ponce is just plain wrong.

Consider that:

Radio stations, controlled by the military, at that time, broadcast threats against the Jesuits shortly before they were killed;

There were more than 200 soldiers at or near the scene of the crime;

The murders were carried out by an experienced and well-trained military unit, acting under orders;

Efforts were made at the scene to cover up the crimes and to point the finger of blame at the FMLN;

A phony firefight was recorded in the official log of military operations;

Not a single officer has come forward voluntarily with information concerning the case;

Evidence controlled by the military has been withheld and destroyed;

Many of the officers who were called to testify lied and lied again about what they know;

Even the special military Honor Board appointed by President Cristiani to review the case lied about it.

General, believe me, you have got an institutional problem.

And that's not the worst of it. I am convinced that, at a minimum, the high command of the armed forces knew soon after the murders which unit was responsible for the crimes. At a minimum, they sought to limit the scope of the investigation in order to protect certain officers from prosecution. And I continue to believe there is a strong possibility that the murders were ordered by senior military officers not currently charged.

I am convinced that there are officers in the armed forces who did not themselves participate in the crimes, but who have further information about the crimes. To date, these officers have not come forward because they fear they will be killed. They know that telling the truth about the military is considered by some in El Salvador to be a capital crime. Again, I say to General Ponce, you have an institutional problem.

It is, in my opinion, the institution of the armed forces that is responsible, not only for the murders but for the failure of the investigation, thus far, to uncover the whole truth.

And, in my opinion, you have an institutional problem when it is the institution that instills fear in potential witnesses; when it is the institution that teaches its officers to be silent, to be forgetful, to be evasive, to lie; when it is the institution that demands loyalty to the armed forces above loyalty to the truth or to honor or to country.

The fact is that there is nothing a soldier or officer could do that would be more patriotic or better for the armed forces or for El Salvador than to come forward with the truth in this case. And if that happens, it will be our responsibility, and that of the civilian government, to protect that witness and to make certain that the evidence he provides is acted upon, not covered up.

I still believe it is possible that a new witness or witnesses will come forward. I believe this because I know there are many good people in the armed forces of El Salvador, some of whom were educated right here at this university or at other Jesuit schools.

I believe there are many in the armed forces who want to see the full truth come out. I believe there are many who want to reform the armed forces and to see it take its proper place within your society.

I have been asked many times what it would take to satisfy me in the Jesuits' case. Would I be satisfied with the conviction of five soldiers? Must a Colonel be convicted? Are eight convictions enough?

My response is simple. I want the truth. Like Ambassador Walker, I want the truth because I believe the Salvadoran people deserve the truth. The whole truth.

There is no such thing as half justice. You either have justice or you don't. There is no such thing as half a democracy. You either have a democracy in which everyone—including the powerful—is subject to the law or you don't.

That's why I believe it is so important that the whole truth emerge in this case. Truth is not the enemy.

Without the truth, the armed forces will never be cleansed of its responsibility for

this crime, and for shielding those involved in it. Without the truth, this government cannot lay claim to truly democratic institutions. Without the truth, the argument that those in opposition to the government should lay down their arms is undermined. Without the truth, the path towards peace in El Salvador will grow steeper still.

IV. PEACE

And I don't have to tell any of you how important it is to bring the civil war in El Salvador to an end.

Not long before he died, Father Ellacuria said that "the way of war has now given all it has to give; now, we must seek the way of peace".

As Father Ellacuria would have been the first to say, the way of peace is not easy, nor is it without risk.

But the way of war is murdering El Salvador. It is a war without victors, only victims. Seventy-five thousand dead. Thousands disappeared. A million forced to flee their homeland. A generation of children denied the innocence and the laughter of childhood. Thousands of young men and women who have lost an arm or a leg to explosives or gunfire.

Even the powerful, the Generals and the commanders, on both sides, are victims. For those responsible for this war must bear the burden in their souls of the killing they have caused, the destruction they have produced, the injustices that have been generated throughout this decade of war.

For ten years, we have heard what the leaders on both sides are against. We have listened to the words of hate, the demands for vengeance, the predictions of triumph. But it has never been important what each side is against; it only really matters what each side is for.

Now, during the negotiations, the burden has been on both the Government and the FMLN to define what they are for. Both sides deserve credit for the progress that has been made; both deserve blame for the senseless violence that has continued.

It breaks my heart, after all this time, to hear of yet more young people being disfigured or maimed or killed. It makes me sick to hear this violence justified as a bargaining tactic. And it makes me wish even more that Father Ellacuria were still here to share with us his wisdom and compassion.

It is not my job or the job of anyone from my country to define the appropriate terms for peace in El Salvador. That is solely the responsibility of Salvadorans, with help, as needed, from the United Nations.

But we in Congress do have a responsibility to see that the United States is a force for peace, not war, in El Salvador.

It is our job to help those on both sides who share the vision of an El Salvador that is democratic and just.

And so I say to the FMLN, if you want our understanding, negotiate in good faith; end your campaign of sabotage; no more assassinations; and bring to justice those who murdered the two Americans killed after the helicopter crash last January.

And I say to the armed forces, if you want our aid, do your part to end the violence; respect the rights of those with whom you disagree; negotiate in good faith; and bring to justice not just some, but all, who ordered or participated in the murders at this campus nineteen months ago.

V. CLOSING

I have been following events in El Salvador for about ten years. And I can't count the number of times I have been told not to expect very much from El Salvador. I have been told over and over again by people in my own government that violence is just part of the culture. Killing and corruption, I am told, have always been common in El Salvador.

Well, I love my country, but I think it's pretty arrogant for anyone from a nation with a $300 billion defense budget, $25 billion in arms sales, a huge military foreign aid program and the highest murder rate in the western world to criticize another society for its tendency towards violence. I don't say that Salvadorans are better than anyone else, but I have never seen a people that wanted or deserved peace more than the people of El Salvador.

You do not have to travel far from this beautiful campus to see whole urban neighborhoods constructed out of tin and cardboard, wedged into ravines where nothing grows except the appetites of young children.

You do not have to travel far to find babies being delivered and surgery being conducted using methods that have hardly changed in the last one hundred years.

You do not have to travel far to find farmers struggling to grow food for their families with no equipment except their own hands and no credit except their own empty pockets.

You do not have to travel far in El Salvador to understand why it is so important that the destruction end and the re-building begin.

And you do not have to travel far to understand why the lives of Father Ellacuria and his colleagues, far more than their deaths, were so important.

The Jesuit fathers taught us that peace is better than war for the simple reason that life is better than death.

They taught us to value the dignity and to respect the rights of every human being, no matter how humble.

They taught us that, although it has often been considered a crime in this country, it is never a crime to speak up for the poor, the helpless or the ill; it is never a crime to tell the truth; it is never a crime to demand justice; it is never a crime to teach people their rights; it is never a crime to struggle for a just peace. It is never a crime. It is always a duty.

So, in closing, I say let us pray that God will grant us the strength, with the memory of these martyred heroes always present in our minds, to fulfill this duty each and every day of our lives.

NATIONAL VOTER REGISTRATION ACT FOR FEDERAL ELECTIONS

THE "MOTOR VOTER" BILL

Mr. DOLE. Mr. President, you do not need to be an election expert to realize that voter turnouts is at an all-time low. In 1988, for example, barely 50 percent of all eligible voters went to the polls—the lowest percentage in more than 40 years. Participation in midterm elections is even lower, down to about 34.4 percent in 1990.

Without a doubt, these are disturbing trends. But they are trends that S. 250, the so-called motor voter bill, will do nothing to reverse.

Unfortunately, low voter turnout has less to do with obstacles to voter registration and more to do with other factors—factors like the lack of competitive congressional races, the lackluster messages of our Nation's politicians, and the frustration of many citizens who feel that their votes simply do not make a difference on election day.

S. 250 will correct none of these problems. It will not make congressional races more competitive. It will not restore voter confidence in the electoral system. It will not guarantee high turnouts on election day.

But it will open the door for rampant fraud. And it will federalize an activity—voter registration—that the individual States have successfully performed for decades.

THE POTENTIAL FOR FRAUD

Mr. President, simply put, S. 250's mail registration procedures are a public invitation for corruption.

Just fill out a form, mail it in, and you are registered to vote. It is that simple.

There is no notarization requirement. No attestation requirement. No verification of identity or citizenship.

But there will be plenty of fraud. That is guaranteed.

UNFUNDED MANDATES

S. 250 would also impose significant unfunded costs on the States at a time when 32 of these States are running budget deficits.

According to estimates prepared by 10 States—Alaska, California, Florida, Illinois, Kansas, New Jersey, New York, South Carolina, Oklahoma, and Virginia—the total cost of complying with S. 250's requirements would exceed $87 million. The total cost for all 50 States would obviously be much higher.

Unfortunately, S. 250 says nothing about how the States should finance the costs of these new, burdensome requirements.

It is voter registration "sticker-shock:" the Federal Government mandates. And the States pick up the tab.

AN ALTERNATIVE

Mr. President, earlier this month, I joined my distinguished colleague from Alaska, Senator TED STEVENS, in introducing an alternative to S. 250.

The alternative would authorize a total of $25 million over 3 years in grants and an incentive for States to implement improved voter registration procedures.

Like S. 250, these procedures would allow registration at State Departments of Motor Vehicles, registration by mail, and registration at Federal and State government agencies.

But unlike S. 250, the implementation of these procedures would be completely voluntary.

The procedures would also remain subject to tough, antifraud provisions already on the books in most States.

In addition, the alternative recognizes that any liberalization of voter registration procedures must be accom-

panied by tougher penalties for public corruption. As a result, the alternative "beefs up" the penalties for such crimes as voter intimidation and ballot falsification.

CONCLUSION

Mr. President, many State governments have conducted very successful programs to make voter registration easier for all Americans.

In my home State of Kansas, for example, mail registration—accompanied by tough verification requirements—has been in effect since 1976. Other States have since followed Kansas' lead.

With a track record on voter registration, the States now need a helping hand from Washington.

They do not need another Federal mandate. And they do not need the iron fist of S. 250.

Mr. President, I have received letters from the National League of Cities, the National Association of Towns and Townships, and the National Association of Counties—all expressing their support for the alternative and their opposition to S. 250.

I ask unanimous consent that these letters be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

NATIONAL LEAGUE OF CITIES,
Washington, DC, May 30, 1991.

Hon. ROBERT DOLE,
Senate Minority Leader, The Capitol, Washington, DC.

DEAR MR. LEADER: I am writing on behalf of the public elected officials of the Nation's cities and towns in support of your proposed alternative, S. 921, to establish national voter registration procedures for Presidential and congressional elections.

The Nation's municipal public elected officials support efforts to enhance registration of more Americans to vote, but we oppose Federal initiatives which mandate significant new costs for local governments—unless such proposed mandates include reimbursement funds.

The version reported by the Senate Rules Committee, S. 250, would impose new and unfunded Federal mandates on an activity traditionally reserved to elected State and local governments. It would require States and local governments to either raise taxes or reduce other services to meet Federal goals and objectives. At a time when the Federal Government has adopted a pay-as-you-go philosophy, we believe it is only fair that such a standard should apply to mandates on other levels of government—even though it is uncertain—at best—that these changes would result in any increased voter participation.

In contrast, your proposal, the National Voter Registration Enhancement Act of 1991, would offer each State an incentive and would impose substantial penalties to help combat fraud and corruption in Federal elections. It would prohibit the Federal Government from mandating a State or municipality to require enhanced voter registration. Consequently, it would avoid interference in State and municipal authority, but would offer a voluntary means to encourage greater State and local registration efforts.

We believe your efforts are a responsible alternative, consistent with an effort to work in partnership with State and local governments. We appreciate and support your leadership.

Sincerely,

SIDNEY J. BARTHELEMY,
President, Mayor, New Orleans.

NATIONAL ASSOCIATION OF
TOWNS AND TOWNSHIPS,
Washington, DC, June 18, 1991.

Hon. ROBERT DOLE,
Minority Leader, U.S. Senate, Washington, DC.

DEAR SENATOR DOLE: I am writing on behalf of the 13,000 local governments represented by NATaT, the National Association of Towns and Townships, in support of S. 921. Your continued understanding of the problems faced by small local governments in implementing unfunded mandates is greatly appreciated.

NATaT's members are from mostly small, rural communities nationwide. They are typical of the Nation's 39,000 general purposes local governments, 78 percent of which serve communities with less than 5,000 residents and half of which are communities with less than 1,000 people. Many of the local elected officials in these communities are the administrators of all elections in their jurisdictions. They have firsthand experience with the strengths and faults of voter registration.

NATaT is very supportive of voter registration efforts. In fact, township governments were founded on the principle of citizen participation. However, the process of registering voters must be one that is manageable and affordable for local governments. S. 250 is neither. It imposes new costs and confusing procedures for which local governments will pay a high price. We have heard very strongly and loudly from local government officials in opposition to S. 250.

In contrast, your legislation addresses these concerns by making the program voluntary and providing funds. By encouraging voluntary participation, you avoid interference with successful programs and leave states the flexibility to create innovative programs to address their specific needs. The penalties S. 921 would impose to prevent fraud and corruption are also necessary to ensure that the registration process is legitimate.

We hope that your colleagues in the Senate will join in support of S. 921. It is a sensible approach consistent with the partnership that the Federal and local governments should have. Thank you for your leadership on this important issue.

Sincerely,

JEFFREY H. SCHIFF,
Executive Director.

Mr. DOLE. Mr. President, I also ask unanimous consent that a letter from the Assistant Attorney General respresenting the views of the Justice Department, along with a statement of administration policy be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, DC, April 17, 1991.

Hon. WENDELL H. FORD,
Chairman, Committee on Rules and Administration, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This letter presents the views of the Department of Justice regarding S. 250, the National Voter Registration Act of 1991. S. 250 would establish national voter registration procedures for presidential and congressional elections. Although the Department strongly endorses the bill's general goal of involving more Americans in the electoral process, we oppose enactment of this bill.

The bill would require all states, except those that have no voter registration requirements at all (i.e., North Dakota) or those with election day registration procedures, to employ three methods of registering voters for federal elections, and would specify in considerable detail what the states would have to do to implement each of the three methods. First, states would be required to include the option for voter registration as part of the process for applying for a motor vehicle driver's license ("motor-voter registration"). Second, states would be required to provide for voter registration by mail ("mail-in registration"). Third, states would be required to designate state-related, federal, and private sector locations to make registration applications available and accept them for transmittal to the appropriate election officials ("satellite registration"). The bill would also severely restrict the grounds upon which voters' names could be removed from voting lists.

Absent any showing of a threat to the integrity of the electoral process resulting from the unjustified restriction of the opportunity for citizens to vote, or the discriminatory treatment of particular groups of citizens, the bill might well exceed the constitutional authority of Congress by involving the federal government in matters which the constitution allows the states to regulate as they deem appropriate. Because it would mandate elaborate procedures without regard to local conditions or appropriate alternatives, the bill would represent a substantial and unnecessary imposition on the states. Moreover, because some of the registration techniques mandated by the bill are fraught with the potential for fraud if adequate verification methods are not used in light of local conditions, and because of the strict limitations on standard means of purging voting lists of stale names, the bill would present a serious potential for increased voting fraud and electoral corruption. Voter registration laws are one of the principal protections against election fraud, and any changes to registration requirements must take into account the potential for increased fraud resulting from the changes.

We are not convinced that the case for mandating uniform, nationwide registration procedures has been made. Eliminating barriers to registration will increase the pool of potential voters and make it possible for more citizens to vote, which is certainly an important goal. However, it is unclear to what extent the change proposed by S. 250 would translate into greater voter turnout, because the empirical link between increased registration and increased voter turnout is undeveloped. Some of the most convincing explanations for shortcomings in registration and voter turnout appear to be poverty, lack of education, alienation, apathy, cynicism about the value of voting, and voter contentment.

We recognize that some historical registration requirements arose from a desire to disenfranchise blacks (and, as a byproduct, disenfranchised many less-advantaged whites). The well-documented historical record of that disenfranchisement and its effects, as well as the continued intentional application of discriminatory registration practices, led to enactment of the Voting

Rights Act, which has proven effective in eliminating discriminatory voting practices and remains a powerful weapon in dismantling illegitimate barriers to voting. A similar record has not been developed in support of the national standards proposed in this bill, nor has there been a convincing showing that existing federal remedies are inadequate.

Moreover, many states are voluntarily adopting innovative registration practices, including variations of the three mandated by the bill. We understand that some form of motor-voter registration has worked well in a number of jurisdictions without any appreciable increase in fraud, that many areas are experimenting with various forms of satellite registration, and that mail-in registration is being used successfully in several jurisdictions. But these jurisdictions also use a variety of procedures to guard against fraud and maintain the integrity of the electoral process. In short, they are able to adapt and tailor the procedures to take into account local conditions that may make some practices more effective than others or may call for special measures to avoid fraud or for avoiding certain practices entirely. That essential flexibility to respond to local conditions would be forbidden by this bill.

S. 250 is substantially similar to S. 874 in the last Congress, which the Administration opposed. However, one key change in S. 250 is that it would exempt any state from the requirements of the bill if the state adopts an election day registration system. In view of the potentially costly and burdensome nature of the bill, this exception would effectively serve as an compelling incentive for states to adopt election-day registration, a change which would substantially impair efforts in many areas to verify voter eligibility, and thus would invite voting fraud and corruption of the election process.

Furthermore, the serious potential for fraud and corruption would be compounded by the current limitations in federal criminal law governing electoral crimes and other forms of public corruption. Existing federal jurisdiction, for example, does not reach fraudulent schemes not involving the use of the mails and where a federal candidate is not on the ballot. As discussed more fully in the attached memorandum, because of these limitations, the provisions of S. 250 would create a greatly increased risk of public corruption, particularly at the local election level where almost all electoral fraud now occurs. Among the most common voter fraud crimes, which we believe will be exacerbated by S. 250, are bribery of voters, stuffing ballot boxes, voter intimidation, and the casting of ballots in the names of deceased, incompetent or otherwise ineligible individuals. In order to increase the Department's jurisdiction to prosecute those who corrupt the electoral process, we have strongly supported enactment of the "Anti-Corruption Act," which passed the Senate in October 1989 as Title IV of S. 1711.

For these reasons, although we fully support the goal of facilitating voter registration, we strongly oppose S. 250, because its approach of mandating uniform procedures regardless of local circumstances is unwarranted, overly restrictive, and almost certain to invite increased fraud and corruption in the electoral process without providing the necessary jurisdictional tools to combat those crimes. The enclosed memorandum elaborates upon these concerns. In our view, should legislative action be considered, it would be far preferable to adopt a more flexible approach which 1) responds to these concerns by leaving the initiative to the states and 2) includes appropriate revisions to current criminal law. Both of those proposals are reflected in S. 3021, which was introduced by Senators DOLE and STEVENS in the last Congress. We would be pleased to work with the Committee on such an alternative to S. 250.

The Office of Management and Budget has advised this Department that there is no objection to the submission of this report from the standpoint of the President's program.

Sincerely,

W. LEE RAWLS,
Assistant Attorney General.

DEPARTMENT OF JUSTICE ANALYSIS OF S. 250

I. SCOPE OF CONGRESS' AUTHORITY

At the outset, we note that S. 250 would unnecessarily intrude into areas of legitimate state discretion. Congress has only limited constitutional power over the conduct of election, even elections for federal officials. Congressional power over presidential elections is described in Article II, section 1, clause 4 of the Constitution: "The Congress may determine the Time of Chusing the Electors, and the Day on which they shall give their Votes; which Day shall be the same throughout the United States." Congress has broader power to regulate elections for Senators and members of the House of Representatives: "The Times, Places, and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators." U.S. Const. Art. I, §4, cl. 1. Electors for Senators and Representatives in each state are to have the same qualifications as those of the most numerous branch of the state legislature. Art. I, §2; amend. XVII. Although the Supreme Court has recognized that Congress has general power to regulate presidential elections to the extent necessary to prevent fraud and preserve the integrity of the electoral process,[1] Congress may not exercise this authority in a manner that "interfere[s] with the power of a state to appoint electors or the manner in which their appointment shall be made."[2] Thus, while Congress has some authority to preserve the integrity of the federal election process by taking steps to prevent fraud, it cannot encroach upon the exclusive power of the states to regulate the manner in which elections are conducted.

Although the precise scope of Congress' power over federal elections is uncertain,[3] we believe that there is a serious question of whether S. 250 may be defended as a permissible exercise of constitutional power. Congress does not have plenary authority to dictate the procedures which a state must employ in elections for federal officials. There is no suggestion that S. 250 is designed to prevent fraud and corruption. Nor is there any showing that this bill is necessary to eliminate any discriminatory practices. Accordingly, we question whether this bill is constitutional.

II. LIMITATIONS ON STATES' FLEXIBILITY TO TAYLOR REGISTRATION PROCEDURES TO SUIT LOCAL CONDITIONS

Apart from the question of Congress' constitutional power, S. 250 would operate to deny the states their historic freedom to govern the electoral process. The flexibility which the Constitution generally gives the states recognizes that different cultural and demographic circumstances may call for different approaches in many areas, including voter registration. For example, registration procedures sufficient to prevent substantial fraud in a sparsely populated, mostly rural state may not be adequate for a more densely populated state with major metropolitan centers and large population and outflows. Depriving the states of this flexibility to tailor their individual approaches to their own particular problems and circumstances—by imposing a single, uniform policy nationwide—forecloses the benefits that would otherwise come from diversity.

A. Practical Impact on the States

In practical terms, S. 250 would impose two significant kinds of costs on the states, the first of which is that the mandated registration methods inevitably would impose added costs on the states, which might be substantial in some cases. The bill would have the effect of dictating to the states how to utilize their resources, rather than leaving them flexibility. It would also make the provision of various services somewhat more expensive for the states and more complicated for the applicants (many of whom would have no need to register to vote).[4] The bill would not merely regulate state registration procedures but, by virtue of Sections 5 and 7, the conduct of other state functions (such as the issuance of motor vehicle driver's licenses, the provision of public assistance, unemployment compensation and related services) may be affected by the applicability of the Voting Rights Act,[5] though we do not view that as a significant burden. The elaborate procedures contained in Section 8 of the bill for verification and removal of names from the official voting lists also are more complicated and expensive than those presently used by most if not all states. While the bill does not (at least on its face) raise the special concerns we would have if it were to attempt to regulate registration procedures for elections of state officers generally, it most likely would coerce the states into following the same procedures for state elections as well.[6]

B. Potential for Fraud and Electoral Corruption

The second cost of the bill is its impact on the integrity of the electoral process. This legislation would effectively eliminate many registration practices that are presently serving to deter electoral fraud. Voter registration laws are the main systemic safeguard against most common varieties of election fraud. Their preventative effect has been augmented by the fact that until now each State has been free (within the constraints of the civil rights laws) to tailor its procedures for establishing the eligibility of prospective voters to differing demographic circumstances.

The requirements of S. 250 would apply uniformly to all states except those that have no voter registration requirements at all (i.e., North Dakota) or those with election day registration procedures, requiring the states to adopt three specified methods for allowing individuals to apply to register to vote,[7] and severely limiting the grounds upon which voters' names could be removed from voting lists.

Motor-Voter Registration. This method is relatively unobjectionable from a criminal law perspective. The Department's experience in prosecuting voting fraud cases suggests that combining the process of applying to register to vote with that of applying for a motor vehicle driver's license would have little adverse impact on the incidence of voting fraud.[8] Moreover, because there is some

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Footnotes at end of article.

degree of overlap between the factors involved in a license application and those involved in a voter registration application, personnel who are already familiar with license application procedures should be relatively easy to train as voting registrars.

Mail-in Registration. Registration by mail is much more susceptible to misuse because a would-be registrant never has to appear in person before a registrar for verification of identity and eligibility. The Department's experience with voting fraud cases to date has not conclusively shown whether registration by mail has a substantial impact on the incidence of voting fraud or not—we simply don't know. Most of the states which already have registration by mail also have in place a variety of procedures for independently confirming the information provided in voter registration applications. These verification procedures, though clearly not perfect,[9] at least help to minimize the opportunities for voting fraud.

By contrast, S. 250 would impose sweeping requirement to allow mail-in registration while simultaneous limiting significantly the ability of the states to use a variety of techniques to verify the applicant's identity and eligibility. For this reason, S. 250's provision for registration by mail would entail a substantial and perhaps prohibitive risk of enhancing the opportunities for fraudulent registration and voting.

It is unclear the extent to which S. 250 would preclude confirmation procedures, except for the applicant's own attestation.[10] The provisions of Section 9, taken together with those in Section 8(a), might be read to require election registrars to accept at face value every application form that is tendered to them and enroll the applicant as long as the form is facially complete. Limiting the ability of election officials to perform routine identity verifications prior to enrollment would create a large potential for abuse.[11] Even under the best of circumstances, redressing fraudulent registrations through criminal prosecutions of the perpetrator (if he or she could be found) would not rectify the damage caused to the integrity of the election process. Moreover, as discussed below, the provisions of Section 8 would severely limit the ability of registrars to remove the names of voters that they know to be ineligible or fraudulent once they have been enrolled, thereby compounding the damage.

Satellite Registration. The third method of voter registration provided in S. 250—application in person at various federal, state or private-sector locations where the public is served directly—also may be problematic in some circumstances. This provision would entrust the task of registering voters to individual government and private personnel who may lack training in and sensitivity to the unique factors involved in preventing voting fraud and establishing and maintaining accurate and up-to-date voter registration lists.

This approach also would risk various forms of intimidation of the public. In at least some circumstances, people seeking tax relief, public assistance benefits, building permits, etc. could easily be given the impression that they have to register, or register for a particular party, in order to please the administrator in whose hands the fate of their application rests. The Department's experience demonstrates that public officials sometimes abuse their power to dispense or withhold benefits in order to pressure citizens into voting a particular way or registering for a particular party.[12] S. 250 would increase substantially the opportunities for such intimidation and coercion of the public. While Section 5(a) of the bill would ostensibly require that personnel assisting applicants with the completion of their applications not display any political preference or party allegiance or seek to influence the applicant's political preference or party affiliation, we think it would be overly optimistic to expect that this prohibition will be sufficient to deter influence and intimidation.[13]

Restrictions on Grounds for Removal. Another very significant potential for fraud is created by the provisions in Section 8, which severely restrict removal of voters from official voter lists. The grounds provided for removing voters from the lists—at the request of the voter or in the event of the death, mental incapacitation, criminal conviction, or change in residence of the voter) are appropriate. But those grounds assume that registration officials receive some notice of the change in circumstances; they are not self-implementing.[14] Accordingly, registrars ordinarily rely as well upon a continued failure to vote—the passage of some minimum number of years, or the occurrence of some minimum number of elections—as a ground for removing stale names from the list. S. 250 would completely eliminate this ground for removing voters' names; Section 8(b) provides that a name could never be removed merely for failure to vote in a federal election—even if the failure to vote persisted over a period of decades. This provides the states far too little leeway to protect against voting fraud by periodically purging the voting rolls of those who have not voted in some time. It would be possible for a voter to remain on the list of eligible voters for an indefinite period after he or she has died, moved away, or otherwise ceased to be eligible to vote in the state in question.

The provisions in Section 8(d) regarding mail verification of changes in residence are inadequate to respond to this concern. In order to remove someone from the list of voters, the registrar first must have some information in order to "determine[ ] that a registrant may have changed residence". Then, the voter must both fail to respond to a forwardable notice from the registrar[15] and fail to vote during the next two federal general elections. Voters who had moved could continue to maintain their place on the official lists either by returning the card (which may have been forwarded to them at their new address) and listing the old address, or simply by continuing to vote at the old location. At a minimum, voters who moved would have to be left on the official list until the bill's requirements were met. The bill does not allow the registrar to remove names from the official list even for voters who are known for a fact to have moved, unless the voter provides that information directly in writing or the registrar follows the two-step process just described, and that process requires that the name be left on the list for two general elections.

In our experience prosecuting voting fraud cases, the maintenance of names on official lists of eligible voters long after eligibility has ended is among the most significant factors contributing to ballot box stuffing and illegal "proxy" voting.[16] On the other hand, we recognize that various methods of purging voters from the rolls have been used in the past to deny the franchise to minority voters. Certainly, vigilance remains necessary to prohibit purging schemes from discriminatorily excluding minority voters; that calls for vigorous enforcement of the Voting Rights Act of 1965.[17] In our view, in order to accommodate these varying concerns, we firmly believe that the choice of a specific waiting period should be left up to the individual states to make based on their own particular experience and circumstances, subject to the requirements of the Voting Rights Act.

III. ELECTION-DAY REGISTRATION

S. 250 contains a new provision which provides for an exemption from the requirements of the bill for any state which allows individuals to register at the polls on the date of a general election.[18] Although Section 4(b) is captioned as a "nonapplicability" provision, in light of the addition of paragraph (2), a more accurate heading would be "election-day registration."

As discussed above, S. 250 would impose substantial—and potentially costly—procedural requirements upon the states with respect to the manner in which they regulate and administer elections in general and the voting process in particular. Since this bill, like its predecessor S. 874 in the last Congress, offers no federal funding to assist the states with these new obligations, Section 4(b)(2) will most certainly be seen as an escape clause, effectively influencing most states, whether for policy, political, or practical reasons, to consider adopting "election-day regisration" in order to avoid the costs and specific standards associated with the mandates of S. 250.

The Department, since 1977, has consistently and strongly opposed federal legislation to impose election-day registration in the States, based on our conviction that election-day registration would totally preclude meaningful verification of voter eligibility, and thus allow easy corruption of the election process by the unscrupulous. Of all the registration reforms which Congress has considered over recent years, from a law enforcement perspective this idea is by far the most troubling. Our objections to election-day registration rest on the following considerations:

Registering voters at the polls on election day totally eliminates the ability of election registrars to confirm a voter's identity, place of residence, citizenship status, felon status, and other material factors bearing on entitlement to the franchise.

Requiring voters who wish to register on election day to provide some form of identification before being permitted to vote does not respond to the fraud problem. Most commonly used identification documents can be easily faked. Thus, a single false identification can be used by the same voter to cast ballots under assumed names at numerous polling locations.

Merging into one simultaneous act both the registration process and the voting process dramatically increases the risk of voter-bribery, since corrupt political operatives interested in targeting prospective voters for payments will no longer be confirmed to the preexisting names on registration lists. This problem is exacerbated by the fact, as we have observed in prosecuting and supervising hundreds of vote-buying cases, that individuals who accept payment for their votes do not have a strong interest in candidates and issues, nor do they tend to see the act of voting as a civic duty. Thus, for a few dollars, they are easily manipulated into giving up their franchise.

The ballots of election-day registrants are liable to be tabulated before an irregularity can be ascertained. There is thus the realistic danger of irreversible damage to the integrity of the election, even in those in-

stances where illegal registration and voting are later discovered.

Although election-day registration may work reasonably well in rural and sparsely populated states, it is extremely doubtful that it would be at all successful in many states with mobile and urbanized populations which have experienced significant levels of local and state governmental corruption.

IV. THE GOALS OF INCREASING VOTER PARTICIPATION WOULD BE BETTER SERVED BY A MORE FLEXIBLE APPROACH

The clear disadvantages of S. 250—both with respect to the restrictive, inflexible procedures it would impose on the states, and the greatly enhanced potential for election fraud—strongly counsel a rejection of that approach. S. 250 would unnecessarily limit the states while failing to provide the federal government with expanded criminal jurisdiction over election fraud.[19]

Certainly, the goal of increased voter participation, while maintaining the integrity of the electoral process, is an important and laudable one. Should Congress desire to enact legislation in this area, we believe that this goal would be much better served by permissive, rather than mandatory, legislation to encourage the states to adopted expanded registration procedures tailored to their specific needs. Such legislation should provide both funds and flexibility to the states, while at the same time providing federal prosecutors with stronger statutory tools to combat the serious and difficult problems of election fraud and public corruption.

This latter approach is reflected in another voter registration bill, introduced by Senators Dole and Stevens as S. 3021 in the 101st Congress. S. 3021 would make new registration procedures voluntary for the states, and provide discretionary grants to those states that chose to adopt some or all of the new procedures. S. 3021 would add a new anti-corruption statute (proposed 18 U.S.C. §225) to remedy the existing patchwork matrix of criminal laws which attempt to deal with frauds on the electoral process and other abuses of the public trust by public officials.[20] The purpose of this important feature of S. 3021's registration proposal is to maximize the federal jurisdictional bases through which federal prosecutors can prosecute corrupt government officials and vote thieves in federal court. S. 3021 also would place the administration of the new registration requirements more appropriately in the hands of the Attorney General, rather than the Federal Election Commission, as S. 250 would provide.

We continue to believe that any legislation which would propose a relaxation of voter-registration requirements should be linked to an increase in federal criminal jurisdiction over election fraud and public corruption, in order that federal prosecutors will be able to respond effectively to the concomitant increases in corruption and election crimes that will inevitably accompany any substantial relaxation of the registration process.

The need to augment existing federal criminal laws dealing with election fraud and governmental corruption has greatly intensified since the Supreme Court's decision in *McNally* v. *United States*, 483 U.S. 350 (1987). Under *McNally*, the federal mail fraud statute—long the main statutory vehicle to assert federal prosecutive jurisdiction over corruption at the local and state levels—no longer applies to corruption and election fraud schemes that do not entail a deprivation of property rights. The enactment by the Congress of 18 U.S.C. §1346 in 1988 did not remedy *McNally*'s negative impact on our ability to combat election fraud in non-federal elections. It is therefore a matter of some urgency to the Department that additional anticorruption legislation, such as that contained in Title II of S. 3021 (101st Congress), be enacted. Under the present statutes relating to, for example, election fraud, the assertion of federal prosecutive jurisdiction over corrupt conduct depends more on whether the name of a federal candidate happens to be on the ballot than on the type of criminal conduct which took place. This is not conducive to an efficient and effective law enforcement response to the serious crimes of election fraud and governmental corruption.

V. CONCLUSION

For all of the foregoing reasons, the Department of Justice recommends against enactment of S. 250. Any federal legislation in this area should follow instead the kind of approach reflected in S. 3021 in the last Congress.

We recognize, of course, that voter registration requirements at times have been used as instruments of discrimination against minorities. Those abuses were instrumental in leading to passage of the Voting Rights Act, and that Act has done much to eliminate discriminatory registration requirements. We believe that discriminatory registration laws or procedures can be dealt with adequately under existing law. While continued vigilance and vigorous enforcement of the Voting Rights Act remain crucial, the current record simply does not support enactment of this sweeping federal mandate, which would deny the states the essential flexibility they require to preserve the integrity of the electoral process.

FOOTNOTES

[1] *See Burroughs* v. *United States*, 290 U.S. 534 (1934) (upholding a federal law imposing record keeping requirements on political committees that accept contributions or make expenditures for the purpose of influencing the election of presidential or vice-presidential electors); *see also Buckley* v. *Valeo*, 424 U.S. 1, 13 (1976) (upholding a federal law regulating campaign contributions against a First Amendment challenge and observing in dicta that the constitutional power of Congress to regulate federal elections is "unquestioned").

[2] *Burroughs*, 290 U.S. at 544.

[3] The power of the states to establish certain qualifications for voting in the election of Senators, Representatives, and the President is limited by several constitutional amendments. *See* U.S. Const. amend. XV (race, color, or previous condition of servitude); amend. XIX (sex); amend. XXIV (poll taxes); amend. XXVI (age). In *Oregon* v. *Mitchell*, 400 U.S. 112 (1970), the Supreme Court upheld a provision of the Voting Rights Act Amendments of 1970 which lowered the minimum age of voters in federal elections from 21 to 18, but the justices could not agree as to the proper basis for the Act's constitutionality. Justice Black believed that Congress has broad authority to set qualifications for voters for electors for President and Vice President, *id.* at 119–24, but four other justices denied that Congress has such power, *id.* at 209–12 (Harlan, J.) and 287–92 (Stewart, J., with Burger, C.J. & Blackmun, J.), while three justices expressly refused to consider Congress' authority to set qualifications for voting in federal elections. *Id.* at 237 (Brennan, White & Marshall, JJ.). The Court split on whether the Act was supported by Congress' power under the Fourteenth Amendment to prohibit discrimination on the basis of age, *compare id.* at 135–44 (Douglas, J.) & 239–81 (Brennan, White, & Marshall, JJ.) *with id.* at 154–200 (Harlan, J.) and 293–96 (Stewart, J., with Burger, C.J. & Blackmun, J.). This issue, however, is not raised by S. 250.

[4] For example, state driver-licensing eligibility does not overlap completely with voter eligibility, requiring states to follow additional steps with respect to license applicants to determine the applicability of voter registration. Most drivers who periodically renew their licenses already would have registered to vote through the normal voter registration mechanisms, and would have no need of the motor-voter registration procedures, while a large number of first-time applicants for driver's licenses—including those under the age of 18 and those who are not United States citizens—would not be eligible to register to vote even though they can obtain a drivers' license.

[5] Section 11(d) of the bill provides that nothing in the bill shall restrict the applicability of the Voting Rights Act. Sections 4(f)(4) and 203 of that Act state: "Whenever any state or political subdivision subject to the prohibition[s] of * * * this section provides any registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots, it shall provide them in the language of the applicable language minority group as well as in the English language * * *." 42 U.S.C. §§1973b(f)(4), 1973aa-1a. Because of these provisions regarding voter registration forms and materials, the bill might have the effect of requiring the limited number of jurisdictions subject to the multilingual requirements of that Act to make bilinqual voting materials available as part of an application for a driver's license or public assistance. Likewise, jurisdictions covered by the preclearance provisions under Section 5 of the Act, 42 U.S.C. §1973c, might have to obtain preclearance of some changes with respect to driver's license registration or public assistance to the extent that they afffect voter registration. Because of the limited number of jurisdictions involved and the ease with which the requirements of the Act may be met, we do not anticipate that these obligations would impose an undue burden.

[6] Because the bill ostensibly would apply only to registration for voting in federal elections, the states still would be free to employ a different set of procedures with regard to registration for voting in state elections. However, the prohibitive cost of maintaining two parallel sets of voter registration procedures likely would induce most states simply to conform their state registration procedures to federal standards, thereby economically coercing the states into abandoning their constitutional prerogative to determine the qualification for voting in state elections.

Apart from the cost of maintaining two parallel sets of voter registration procedures and voter rolls, that approach could cause considerable confusion on the part of voters who may misunderstand the limited scope of the federal registration procedures and mistakenly believe that they are registered for all purposes.

[7] S. 250 does not directly impose registration on the day of election. However, the exclusion from the requirements of the bill for any state that has adopted election day registration will be a very strong incentive to adopt that approach. That approach, as discussed more fully below, would greatly impair the ability of the Department and the states to combat voting and election fraud.

[8] We note, however, the anomaly in Section 5(d) of the bill which provides that a person could request a change of address for motor vehicle license purposes without having the registrar informed of the move for voting purposes. That would seem to facilitate fraud by those who would continue to vote at the old address.

[9] We note that the security of many existing mail-in registration schemes used by the states is suspect because some of them rely almost entirely upon having registrars send out non-forwardable canvass letters to persons who register by mail rather than in person. Although the assumption presumably is that the United States Postal Service will return the letters with respect to individuals who do not actually live at the specified address, that is simply not the case. The Postal Service does *not* inquire whether the addressee of non-forwardable mail actually exists and lives at the address in question. As the Postal Service acknowledged at a November 1989 meeting of the Federal Election Commission's Advisory Committee on Election Administration, the *only* circumstance in which non-forwardable mail will be returned is where the addressee 1) is a real person 2) who once resided at the specified address and 3) actually filed a change of address form with the Postal Service; in any other case, the mail will simply be delivered to the current resident at the address with no notice to the sender. Thus, even one of the key existing methods used by the states to prevent fraudulent or multiple registrations is flawed, and S. 250 would not permit even the use of that method.

Because the assumption underlying verification by mail is false, there may in fact be a great deal of fraudulent registration by mail that simply has gone undetected. The only reported case in which registration by mail has been used fraudulently is *Untied States* v. *Cianciulli*, 482 F. Supp. 585 (E.D. Pa. 1979), and there the fraud was discovered only as a fortuitous byproduct of an investigation into matters unrelated to voter registration.

[10] Section 9(b)(2) of the bill would require mail voter registration application forms to include an attestation by the applicant, under penalty of perjury, that he or she meets all eligibility requirements, but would not permit notarization or any other form of formal authentication.

We also note that the bill requries the "signature of the applicant" on the registration application form. We are concerned that this language could prevent persons who are unable to write their names from registering in accordance with these provisions.

[11] Moreover, although Section 6(c)(1) permits the states to require that new voters who have registered by mail must vote in person at their first election, the following paragraph creates an exception for persons who are eligible to vote by absentee ballot under the Uniformed and Overseas Citizens Absentee Voting Act, the Voting Accessibility for the Elderly and Handicapped Act, or "any other law." This last condition, freely permitting absentee voting, would substantially eviscerate the safeguard of a first-time-in-person requirement. By definition, *every* voter must vote in person unless authorized by law to vote by absentee ballot.

[12] *See, e.g.*, United States District Court, Northern District of Illinois, Eastern Division, *Report of the Special January 1982 Grand Jury*.

[13] After all, existing felony laws (e.g., 42 U.S.C. §1973i (c) and (e), and 18 U.S.C. §§594 and 597) have never been wholly successful in deterring coercive or fraudulent registration and voting practices where political and social conditions are conducive to such practices. We know of no reason to expect that additional laws prohibiting intimidation and coercion would be any more successful.

[14] Registration officials are unlikely to find out when a registered voter has changed his or her voting residence if the voter hasn't bothered to inform them. Similarly, registrars would need to receive notice of deaths or convictions before removing voters' names on those grounds.

[15] The fact that the notice must be forwardable would mean that the registrar often would not receive notice of a change in address. Under existing Postal Service procedures, if a valid change of address order was on file, the forwardable notice would have been sent on to the addressee without any notice to the registrar that the addressee had moved from the specified address. On the other hand, if no change of address order had been filed, or if the person had never lived at the address at all (and used a false address to register previously), then the letter would simply be delivered to the address, again without any notice to the registrar of that fact.

[16] *See, e.g., United States* v. *Gordon*, 817 F.2d 1538 (11th Cir. 1987); *United States* v. *Howard*, 774 F.2d 838 (7th Cir. 1985); *United States* v. *Olinger*, 759 F.2d 1293 (7th Cir. 1985); *Ingber* v. *Enzor*, 664 F. Supp. 814 (S.D.N.Y. 1987). *See also* United States District Court, Northern District of Illinois, Eastern Division, *Report of the Special January 1982 Grand Jury*.

[17] We note that the bill's purging procedures would not apply in any event to persons registered by federal examiners under the provisions of the Voting Rights Act. Section 6 of the Voting Rights Act , 42 U.S.C. §1973d, permits Federal examiners to register voters in certain circumstances. Such federal registration lists have been compiled in Alabama, Louisiana, Mississippi, Georgia, and South Carolina. Under Sections 7(d) (2) and 9 of the Voting Rights Act, 42 U.S.C. §§1973e(d)(2) and 1973g, federally listed voters can only be removed from the state's list of eligible voters with the approval of the Office of Personnel Management after a challenge heard by an OPM hearing officer in accordance with OPM regulations, 45 CFR Part 801.

[18] Section 4(b)(2) provides that the bill "does not apply to a State in which . . . all voters in the State may register to vote at the polling place at the time of voting in a general election for Federal office."

[19] S. 250 would also require that federal prosecutors provide state election officials with comprehensive information about felony convictions secured within their districts. Section 8(f). This is an unreasonable burden on federal prosecutors insofar as the information would already be part of the public record.

[20] The Department's proposed anti-corruption statute was set forth as Title II of S. 3021. This same language passed the Senate during the 101st Congress, as Title IV of the President's national drug-control legislation, S. 1711, in October 1989.

OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, June 11, 1991.

STATEMENT OF ADMINISTRATION POLICY

(S. 250—National Voter Registration Act of 1991—Sponsors: Ford of Kentucky and 24 Others)

The Administration endorses the goal of increasing participation in the electoral process. However, the Administration opposes S. 250, and urges enactment of the amendment in the nature of a substitute (S. 921) expected to be proposed by Senators DOLE and STEVENS.

S. 250 would rewrite the election laws of virtually all States (except for States with no voter registration requirement at all or States with election day registration). It would require the States to employ three methods of registering voters for Federal elections, and specify in considerable detail what the States would have to do to implement each of the three methods. It would also restrict the grounds for removal of ineligible voters.

The Administration opposes of S. 250 in its current form because: (1) a sufficient justification has not been demonstrated for imposing extensive procedural requirements and significant related costs on the States; (2) the bill would increase substantially the risk of voter fraud without enacting any effective criminal prohibitions that go beyond the limits of existing law; and (3) the Voting Rights Act of 1965 already provides sufficient tools to challenge registration procedures that are discriminatory.

Although many States have adopted innovative registration practices, including variations of the three mandated by the bill, those jurisdictions also use a variety of procedures to guard against fraud and maintain the integrity of the electoral process. They are able to adapt and tailor the procedures to take into account local conditions that may make some practices more effective than others or may call for special measures to avoid fraud or for avoiding certain practices entirely. That essential flexibility to respond to local conditions would be forbidden by this bill. In particular, S. 250 would create substantial opportunities for abuse because it would limit the State's ability to confirm independently the information contained in voter registration applications and severely restrict the States' ability to remove ineligible voters from the rolls. This serious potential for fraud and corruption would be compounded by the current limitations in Federal criminal law governing electoral crimes and other forms of public corruption, which S. 250 does not effectively address.

The Dole-Stevens substitute, by contrast, would promote increased voter participation in elections by giving States an incentive to implement voluntarily nondiscriminatory registration procedures through a system of Federal block grants with a matching fund requirement for States. It would also clamp down on public corruption through stiffer fines and expanding the scope of Federal jurisdiction to prosecute election crimes.

THE SECOND ANNIVERSARY OF THE HOUSE ARREST OF AUNG SAN SUU KYI AND THE IMPOSITION OF UNITED STATES TRADE SANCTIONS ON BURMA

Mr. MOYNIHAN. Mr. President, I rise today to call the attention of the Senate to the fact that today is the second anniversary of the house arrest of Aung San Suu Kyi. My colleagues I am sure are aware that Suu Kyi is the embodiment of the struggle of the Burmese people to end three decades of military repression. During the tremendous uprising that the world witnessed in Burma in 1988, when literally millions of Burmese took to the streets to demand democratic reform, Suu Kyi emerged as the leader that united the fractious nation of Burma.

Her grace and courage touched the Burmese people as it has touched us. She is a leader of such power and force that the Burmese military dictatorship remains so afraid of her that she has been silenced for 2 years.

Even so, in May 1990 the Burmese people elected her party, the National League for Democracy, to power in Burma. Her party won 80 percent of the seats for a new parliament. The junta somehow stunned that their own party was doomed to repudiation in any free ballot, has since simply gone on to deny the results of the election and the will of Burma's citizens. And Suu Kyi remains imprisoned, cut off from her family, her friends, and her people.

But her spirit is not cut off from us. Indeed, she speaks to us loudly every day. Just this month the European Parliament awarded Suu Kyi its highest human rights award, the Sakharov Prize. Of course, Suu Kyi could not be present to accept the award, but its meaning was elegantly explained by the President of the European Parliament, Enrique Baron Crespo, who presented it in absentia to her. I ask unanimous consent that the text of Mr. Crespo's speech be included in the RECORD.

It is also fitting, Mr. President, that I have the opportunity to inform the Senate on this second anniversary of Suu Kyi's arrest, that the State Department has informed me just yesterday of the President's decision to impose economic sanctions on Burma consistent with the requirements established by the Congress in section 138 of the Customs and Trade Act of 1990. Many Members of the Senate have been urging action under this law, and today we can take some satisfaction that an important action has been taken under it. The President will not renew the United States Bilateral Textile Agreement with Burma which expired at the end of 1990.

Without such an agreement, there is no certainty of market access to the United States for Burmese textiles, and, indeed, we intend to see them stopped. Textiles imports from Burma

accounted for $9.2 million in trade in 1990, almost half of Burma's exports to the United States. They grew quickly from less than $4 million in 1987. We intend to see them decline even faster. We also have this important message today to any foreign investor who might be tempted to go to Burma for quick profits by shipping textiles to the United States: Think again. The President and the Congress will not permit the United States market to finance the exploitation of the Burmese people.

Indeed, this is an important event, a further statement of opposition by the United States to the Burmese regime, and one with consequence. Certainly, many of us would like ever more steps taken against Burma and those who would seek to benefit from the tragedy of the Burmese people. We will continue to work to that end. And we will work with the administration to continue an unrelenting campaign against the criminals that call themselves the SLORC.

We hope that Suu Kyi can hear our resolve today. We certainly hear hers.

I ask unanimous consent that a letter from Janet Mullins, Assistant Secretary of State for Congressional Affairs, to me on July 18, on Burmese economic sanctions, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SPEECH BY ENRIQUE BARON CRESPO, PRESIDENT OF THE EUROPEAN PARLIAMENT

Honourable Members, we are gathered together in a solemn sitting in order to deliver the 1990 Sakharov Prize to Aung San Suu Kyi. This prize, as you know, is awarded for freedom of thought.

Unforunately our prizewinner is unable to be with us today, as she is being held against her will and that of her people by tyrants who imagine that with their blind attitude they can stop the course of history.

Your President is therefore obliged, once again, to hand over this important prize to a member of the family of the 1990 Sakharov prizewinner.

First of all may I say to her son Kim and her husband Michael ARIS how much we admire you own sacrifice and how we share you emotion and justifiable pride.

We are awarding this prize to a brave Asian. A woman whose name has become synonymous with the non-violent struggle for freedom and democracy.

Ladies and gentlemen, "There are moments of tragedy, horror, anger and sheer disbelief. Surpassing all is the conviction that a movement which has arisen so spontaneously from the people's irresistible desire for the full enjoyment of human rights must surely prevail."

The words of our prizewinner were delivered in October 1988 at a moment of great hope for the people of Burma, when it appeared that democracy was about to prevail.

In July 1989, however, the military dictatorship placed our prizewinner under house arrest and then banned her from standing for election. In spite of this fact, and the enormous intimidation to which her movement, the National League for Democracy, was subjected, the League won 392 out of the 485 seats in elections held in May 1990. A quarter of the candidate elected in those elections are now in prision. At least 500 officials of the National League for Democracy are in jail. The military authorities resort systematically to the use of torture and murder. Burma is indeed a country in prison.

I have to inform the European Parliament that the authorities in Burma have categorically refused to cooperate with this Presidency even to the extent of not disclosing whether the letter which I sent to Aung San Suu Kyi to inform her of this award has been delivered or not. I would like to thank the Presidency of European Political Cooperation, represented in Rangoon by the French Ambassador, for their help in this matter. Unforunately their efforts were as fruitless as my own. I would add how much I also deplore the fact that the Burmese authorities have even refused Dr. Aris permission to visit his wife in order to discuss her response to my invitation. I specifically asked that this request be granted, but again my request was refused. The European Parliament's frequent resolutions deploring the suppression of human rights in Burma have been echoed in numerous statements by the twelve Member States as well as resolutions by the United Nations. I regret that some Asian countries have failed to support international action to bring pressure on the Burmese military dictatorship. The authorities in Burma clearly believe that they can defy not only the people of their own country, but also world opinion as frequently expressed by the United Nations. They are wrong.

Ladies and gentlemen, what is most impressive about our prizewinner is her commitment to non-violence. When Aung San Suu Kyi took on the leadership of the National League for Democracy she knew the risks which she was undertaking. Having lived outside her own country for many years, she could have decided to avoid these risks. It was out of loyalty to her people and to the basic values of democracy and human rights that she returned home.

Since her childhood Aung San Suu Kyi has always been aware that she is the daughter of the country's national hero, U Aung San. Having fought for his country's independence he was assassinated at the age of 32, when his daughter was only 2 years old. As her husband has told me, she has spent the rest of her life learning about a father she never knew and in doing so has been imbued with the principles of freedom, discipline and self-sacrifice for which he is always remembered by the people of Burma. Like Gandhi, like Havel and like Andrei Sakharov himself, she has learnt that these values are much more powerful than the instruments of repression. In the face of terrible pressure she has learnt to live in freedom from fear. As she herself has written: "It is not easy for a people conditioned by fear under the iron rule of the principle that might is right to free themselves from the enervating miasma of fear. Yet even under the most crushing state machinery courage rises up again and again, for fear is not the natural state of civilized man."

This ceremony today confirms the fundamental commitment of the European Parliament to work for the respect of human rights in all continents. In the past few years we have seen great progress in many parts of Europe, Latin America and Africa. Today we remind ourselves that this struggle must go on. It is a task to which our Parliament and the European Community as such is well suited. Our countries have faced up to the consequences of repression and conflict and have decided to build together a European Union to defend the achievement of democracy in our own continent. Moreover our campaigns for human rights are not intended to interfere in any country's internal affairs, but merely to support the universal values of the United Nations.

In conclusion, I can assure you that we all also welcome the important Declaration on Human Rights adopted by the European Council of 29th June. In this declaration it is recalled in particular that the protection of human rights is one of the foundation stones of European cooperation and of the relations between the European Community and third world countries. This occasion underlines Parliament's active role in this vital respect.

This is both a sad and a hopeful occasion. As I hand over the 1990 Sakharov Prize, I do so in the knowledge not only that democracy will triumph in Burma, but in the knowledge that when that happens, sooner rather than later, Aung San Suu Kyi will be able to be with us to celebrate her victory, the victory of her people and the victory of her struggle for peace and freedom.

U.S. DEPARTMENT OF STATE,
Washington, DC.

Hon. DANIEL PATRICK MOYNIHAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MOYNIHAN: I write because of your interest in the implementation by the Administration of Section 138 of the Customs and Trade Act of 1990, which calls for the President to impose appropriate economic sanctions on Burma if that country does not meet certain conditions specified in that Act. Burma has not met those conditions, and I wish to let you know that the Administration will inform the Chairmen of the House and Senate committees concerned that we intend to implement Section 138 by refusing to renew our bilateral textile agreement with Burma.

This agreement, which lapsed December 31, 1990, was the foundation for Burma's largest single category of exports to the United States. In 1990 textiles accounted for just over $9 million of total Burmese exports to the United States of $22 million. In many instances the absence of a textile agreement leads to increased imports because of the lack of controls. This has not been the case in regard to imports from Burma. In just the first four months of 1991, textile imports from Burma have decreased by 15 per cent in volume and 11 percent in value compared with the same period in 1990.

We believe this is due to uncertainty on the part of importers and potential investors in Burmese textile capacity about the state of political relations, the Burmese economy, and most importantly, the lack of a guaranteeed share of the American market that comes with a textile quota. The Burmese government seems to recognize this siutation, as it has several times requested us to renew the textile agreement. We would of course continue to monitor closely imports of textiles from Burma to assure that this action remains appropriate.

Section 138 also calls for the Administration to consult with other industrial democracies on the possibility of multilateral economic sanctions. We continue our discussions on this issue with the EC countries, the Nordic states, Canada, Japan, Australia, New Zealand, and the Republic of Korea. We were thus gratified that the EC earlier this month announced an arms embargo on Burma similar to ours. While we find serious concern

with the situation in Burma, there is no significant support for multilateral economic sanctions, generally because of the paucity of economic relations with Burma. We will continue to press our friends and allies on the situation in Burma, including the members of ASEAN next week at the annual Post-Ministerial Conference in Kuala Lumpur.

We will of course maintain the sanctions we have previously taken against Burma: an embargo on the sale of arms; the suspension of all non-humanitarian aid; opposition to loans to Burma by international financial institutions; and no OPIC programs. We are likewise continuing, with some success to encourage others not to provide bilateral assistance to Burma, to join us in a common approach to Burma, and to condemn Burma's human rights practices in United Nations fora.

I appreciate your concern with the human rights abuses and political oppression of the military regime in Burma. I assure you that the Administration will continue to work with you for democratic reform and improved human righs practices in Burma.

Sincerely,

JANET G. MULLINS
Assistant Secretary,
Legislative Affairs.

S. 250, MOTOR-VOTER LEGISLATION

Mr. FORD. Mr. President, last night, the Senate failed to invoke cloture on the motion to proceed to the consideration of S. 250, the National Voter Registration Act of 1991. Prior to and after the two cloture votes, we heard some statements from some of my colleagues about this bill. I would like to take this opportunity to clear the record of some errors and other misinformation that was said on the Senate floor.

Contrary to the views expressed by opponents of this legislation, the purpose of this bill is not to increase voter turnout. Both the Senator from Oregon, Senator HATFIELD, and I, are well aware that no legislation can mandate a higher turnout. What the motor-voter bill would do is increase the number of eligible voters to participate in the electoral process. It will increase the pool of voters that we as candidates will have to motivate and encourage to vote. And the figures show that registered voters do vote.

In the 1990 general elections, only 36 percent of eligible voters went to the polls. Voter turnout of registered voters was 54.7 percent.

Last night, it was said by one Senator that the State of Wyoming typically votes the largest percentage of its voters in the Nation. Then I heard that Wyoming has the highest registration among all the States. Mr. President, these statements are very misleading and are not completely accurate.

In the 1990 general elections, Wyoming ranked 14th in turnout. Thirteen other States had a turnout higher than Wyoming. In 1988, Wyoming ranked 29th in total turnout for the Presidential election. In fact, since 1976, Wyoming has never ranked higher than 20th in turnout for the Presidential elections. That is far from having the largest percentage of voter participation in the country.

In terms of its percentage of registered voters, Wyoming does not have the highest registration among all the States. Based on a CRS report on the 1990 election statistics on registration and turnout, Wyoming ranked 33 out of 51 in the registration percentage based on the voting age population. And in the last Presidential election year, Wyoming ranked 40 out of 51 in the registration percentage based on voting age population

The record is very clear Mr. President, Wyoming is far from having the best registration and turnout among the States. In fact, in those States which require advance registration, Minnesota has consistently ranked the highest in terms of registration and turnout of any of the States. Minnesota has all three registration programs of S. 250. This belies the suggestion by some of my colleagues that registration programs do not affect turnout.

Based on the CRS report of the 1990 statistics on registration and turnout, I have a table which ranks the 50 States and the District of Columbia according to turnout. And I ask unanimous consent this table be printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

1990 voter turnout and State ranking

[Based on voting age population]

1. Maine	56.51
2. Minnesota	55.83
3. Montana	53.31
4. Oregon	51.83
5. Massachusetts	51.17
6. Alaska	50.85
7. South Dakota	49.90
8. Nebraska	49.90
9. Vermont	49.86
10. North Dakota	47.85
11. Rhode Island	47.34
12. Iowa	46.48
13. Connecticut	45.34
14. Wyoming	45.23
15. Idaho	43.92
16. Louisiana	43.81
17. Ohio	42.99
18. Kansas	42.08
19. North Carolina	41.23
20. Hawaii	40.94
21. Colorado	40.24
22. Utah	39.91
23. Arizona	39.69
24. Alabama	39.67
25. Arkansas	38.89
26. Nevada	38.18
27. Wisconsin	38.12
28. Oklahoma	37.64
29. Illinois	37.54
30. Michigan	37.44
31. New Mexico	37.15
32. Washington	36.43
33. Indiana	36.27
34. Delaware	35.74
35. California	35.56
36. Florida	35.44
37. District of Columbia	35.22
38. New Hampshire	34.89
39. Missouri	34.82
40. Pennsylvania	33.26
41. Kentucky	32.82
42. New Jersey	32.43
43. Texas	31.31
44. Maryland	31.16
45. Georgia	30.41
46. New York	29.92
47. South Carolina	29.12
48. West Virginia	28.67
49. Virginia	24.55
50. Tennessee	21.04
51. Mississippi	19.53

Mr. FORD. Mr. President, the opponents point to a study by the Congressional Research Service which they claim shows that in those States which adopted motor voter, turnout declined and did not increase. It should be noted that the CRS study was flawed in a number of respects. First, the CRS study included States with motor-voter programs which had not yet been implemented. Of the 10 States included in the CRS study, 4 did not have an operating motor-voter program at the time of the 1988 election, when the study was conducted.

Second, the CRS report did not distinguish between new applicants and renewals. Some State motor-voter programs are limited to new drivers license applicants and other States limit the program to license renewals. This allowed two biases to affect the study. The first is that new applicant-only programs have much less impact on registration levels, since it is obvious that far fewer people apply for licenses than renew them every 4 years. The second bias is that those applying for licenses are overwhelmingly younger than those who renew them, and young people vote less. In short, these biases lead to an underestimation of the potential impact of motor-voter programs on both registration and voting levels.

Third, the CRS study did not distinguish between in-person and mail drivers license renewals. Finally, a motor-voter program needs to be fully operational for 4 years—a full driver's license renewal cycle—in order to test its impact on registration and voting. In fact, the CRS study noted that "the lack of time for motor voter procedures to show any affect" hampers evaluation in "States that have only recently adopted the system."

Mr. President, one of the arguments made most against the bill is that it will increase the opportunity for fraud and abuse. These concerns, while real, are adequately addressed in the bill. S. 250 includes five specific protections against fraud: First, an attestation clause that sets out all the requirements for eligibility to vote; second, the signature of the applicant under penalty of perjury; third, the State may require by law that a first-time voter who registers by mail make a personal appearance to vote; fourth, each applicant is to be given notice of the disposition of his or her registra-

tion; many States use this notice as a means of detecting fraudulent registrations; and fifth, Federal criminal penalties would apply to any person who knowingly and willfully engages in fraudulent conduct.

Opponents to this legislation point to mail registration as the greatest opportunity for fraud. To support their argument, they point to a 1984 New York grand jury which investigated vote fraud in Kings County, NY. According to opponents, the recommendations of the grand jury as they relate to mail registration would be prohibited by S. 250. This is simply untrue.

Following the committee's markup and reporting of the bill, I received a letter from Elizabeth Holtzman, the comptroller for the city of New York. Ms. Holtzman was the district attorney who convened the New York grand jury. Let me take a moment to cite a few passages from her letter, because her comments are very enlightening:

During my tenure as King's County District Attorney, a Brooklyn Grand Jury investigated fraud and illegality in certain primary elections in Kings County, New York. The Grand Jury's 1984 report documented deficiencies in the voter registration system and made recommendations for reform. The Grand Jury did not, as implied by the minority view included in the Committee Report accompanying S. 250 * * *, recommend repeal of the mail registration system * * *.

As a result of the Grand Jury's investigation, eleven recommendations were made. Of these eleven, two recommendations related to the registration procedure itself. The first was the recommendation of a study to evaluate various proposals and remedies to identify voters at the time of voting or registration, serializing registrations cards and insisting on greater accountability by organizations engaged in voter registration. The second recommendation called for a recision of the voter registration card affirmation to less legalistic language and printed in prominent boldface type so as to be easily noticed and to alert the applicant. The remaining nine recommendations related to security at the Board of Election offices.

The proposed National Voter Registration Act of 1991 would not preclude states from taking these and other steps to protect the integrity of the electoral process. In fact, the Act could strengthen anti-fraud efforts.

As indicated by Ms. Holtzman's letter, the main focus of the grand jury's report was on security at the board of elections. Security was so lax in these offices that the individuals engaged in the fraudulent activities were able to hide themselves in the ceiling of a rest room and accomplish their forgeries undetected after the close of business.

I would also point out to my colleagues who have a fear of mail registration, that the State of New York recently enacted a new registration statute which extended the deadline for mail registration and would permit local officials to abolish registration at boards of elections, except in Presidential election years; thus, relying almost exclusively on mail registration. Clearly, if the State of New York believed that the mail registration system resulted in fraudulent registrations, it would have sought to abandon or limit mail registration.

In fact, a few years ago, the Congressional Research Service studied the experience of the 19 States which had mail registration at that time. That study concluded that mail registration was not accompanied by any increase in voter or registration fraud, and that there are effective ways to prevent fraud that were in use by those States. That study showed that the two most frequently used means to prevent fraud were an attestation clause and a followup mailing to the applicant on the address stated on the application. Both of these measures are provided for in S. 250. They have been proven to be sufficient and effective, while at the same time, they do not impose unnecessary burdens and procedures on people conducting voter registration drives.

With regards to agency-based registration, let me just say that the fears expressed by some Members that recipients of benefits will be manipulated or intimidated are completely unfounded. In those States which have agency-based registration, there has been no single case of intimidation or coercion. In fact, S. 250 specifically prohibits such conduct and would subject anyone engaged in such activity subject to Federal criminal prosecution.

One of the most significant parts of S. 250 is that eligible citizens, once registered, should not needlessly re-register as long as they remain eligible to vote in their jurisdiction. My colleagues have pointed to a recent GAO report which analyzed voter participation in industrialized democracies. This report found, in part, that many democracies penalize voters for not voting. And this, opponents argue, indicates why our sister democracies have such high voter turnout. What my colleagues fail to point out is that there is a penalty for not voting in this country. That penalty is that if you do not vote, your name will be removed from the list of eligible voters. While nonvoting may be an indication that a registered voter has moved, it is not a sufficient reason for the removal of that person's name from the rolls. S. 250 would prohibit the purging of a voter's name for the simple reason of failing to vote. The proposals by the minority would not prevent this from occurring.

I have heard many arguments that this bill will impose undue financial burdens on the States. I will not deny that there will be some startup costs that are associated with the registration programs. But to argue that we should include an increase in registrar's salaries because they didn't bargain for increased registrations is ludicrous. This argument only serves to demonstrate that many of the cost estimates that have been cited by opponents are inflated and do not reflect the true and technical requirements of the bill.

Perhaps what is more disturbing in these arguments and costs is that opponents are arguing administrative convenience over the principles of democracy. This bill will increase the number of registered voters and that will likely mean that the States will have to plan for the possibility of larger turnouts. But I do not think we should begrudge this bill because it will mean a larger administrative workload. Those who make such an argument, I find deeply disturbing. I find it difficult to accept the argument that States are going to cut basic health and safety budgets in order to pay for the costs of increased registration rolls because it is akin to the imposition of a poll tax on new registrants. Mr. President, I thought the 24th amendment to the Constitution eliminated the poll tax.

In fact, through several other constitutional amendments, I thought we eliminated many of the restrictive practices and requirements on the right to vote. Last night, I heard some discussion about the right to vote and the restrictions imposed on that right by our Founding Fathers. Surely my colleagues do not suggest that we should return to the days when only white male property owners were permitted the right to vote?

Is it the intent of the opponents of this legislation to achieve through archaic and confusing registration practices that which they cannot achieve through outlawed practices such as poll taxes and literacy tests?

This bill is about access to the voting booth. And access is first achieved by registering to vote. This bill makes registration convenient and accessible to all eligible voters, regardless of race, income, and physical condition. What could be more democratic? What could be more vital to the interests of the republican form of government?

We should not be content with low voter participation. It is a national disgrace. S. 250 would go a long way toward improving voter participation in the electoral process. As the Secretary of State of Washington, Ralph Munro, stated during a hearing before the Rules Committee, the election process should not be used to test the fortitude and determination of the voter, but to discern the will of the majority. I couldn't agree more.

Mr. President, the National Voter Registration Act of 1991 will go a long way to assure that voting rolls are kept current and accurate so that they can serve as vehicles to facilitate full participation in our elections, rather than as obstacles to full participation by our citizens. It will assure that the exercise of the right to vote will be readily available to all qualified citi-

zens, and not a prize reserved for those who demonstrate the stamina and endurance to overcome obstacles. This bill deserves the attention and support of all Members troubled by the trends of declining voter participation.

TURKEY'S INVASION OF CYPRUS

Mr. BIDEN. Mr. President, yesterday in a speech before the Greek Parliament, President Bush said that the United States "will do whatever it can" to help settle the Cyprus problem this year.

The President's pledge comes 17 years—almost to the day—after Turkey's invasion of Cyprus led to its tragic division. Before speaking to the President's statement, it is worth recalling some of the events that led to the current situation.

In the fateful month of July 1974, a coup by radical Greek Cypriots, instigated by the rightist junta in Athens, threatened the Turkish minority in Cyprus. The plotters sought to unite Cyprus with Greece.

Turkey, a guarantor of the treaty establishing Cypriot independence, sent forces with two benign results. The coup on Cyprus failed, and the dictatorship in Athens collapsed. Had Turkey withdrawn at that point, the world could hardly have complained. A few weeks later, however, in the midst of peace talks in Geneva, Turkey launched a second invasion; 40,000 troops proceeded to carve the nation in two.

The invasion was as vicious as it was rapid; thousands were killed. Nearly 200,000 Greek Cypriots—30 percent of the population—fled their homes in Northern Cyprus and resettled in the south. To this day, over 1,500 people, including 5 Americans, remain unaccounted for.

As with Iraq's invasion of Kuwait, alert United States diplomacy might have averted tragedy. Warnings by President Johnson on two occasions in the 1960's had helped prevent Turkish intervention. But a Nixon White House distracted by Watergate ignored predictions of the coup on Cyprus, and stood by while Turkey launched its invasions.

Unlike Iraq, however, Turkey's illegal actions were only briefly punished. The United Nations demanded Turkey's immediate withdrawal but enforced no sanctions. A partial U.S. arms embargo imposed by Congress lasted just 4 years.

Meanwhile, the occupation of northern Cyprus was buttressed by the immigration of mainland Turks who were encouraged to settle in Cyprus by Ankara. In 1983, Turkish Cypriots declared secession by establishing the "Turkish Republic of Northern Cyprus," recognized only by Turkey. The U.N. Security Council again spoke forcefully, declaring the act legally invalid but it failed to act further.

Last September, in his address to Congress, President Bush proclaimed that the fifth objective in the gulf crisis was the creation of a "New World Order" Where the "rule of law supplants the rule of the jungle."

Unfortunately, the rule of the jungle persists in Cyprus. Today, U.N. peacekeepers monitor a cypriot dividing line. Beyond it, Turkey occupies nearly 40 percent of Cyprus in defiance of the U.N. charter and the Helsinki Final Act.

If we are to realize the vision outlined by the President—and demonstrate that the New World Order is more than a slogan—the United States must energize the pursuit of other sound objectives affirmed by the United Nations, beyond the liberation of Kuwait.

The Bush administration has made clear that it seeks peace between Israel and the Arab States as well as a resolution of the Palestinian question. Justice demands that the administration also turn to the Cyprus issue with equal vigor by pressing forcefully for Turkish withdrawal.

Such efforts would encounter the paradox that Turkey played a key role in laying the cornerstone for the New World Order. Turkey's shutdown of Iraq's export pipeline was critical in the U.N. blockade, and allied planes used Turkish bases. But Turkey's contribution to principled U.N. action in one area cannot provide immunity against principled U.N. action elsewhere. There is no such thing as time off for good behavior.

The administration may resist courting Turkey's anger at this moment, but applying principles—and dealing with the difficult—is precisely what the promise of a New World Order is about. The United States cannot dispatch half a million troops in every instance of aggression. We can demand consistency in applying the principle that aggression be collectively resisted.

The President's speech to the Greek Parliament is an encouraging and important development, and a clear expression of America's interest in a settlement. When he visits Turkey tomorrow, he must deliver an equally unequivocal message. He must make clear that Turkey's occupation of Cyprus cannot continue. He must make clear that its violations of international norms are unacceptable. And he must make clear that its actions are an impediment to United States-Turkish relations.

At stake are basis issues of international, law, which a series of U.N. resolutions have underscored. At stake is the relationship of the two NATO allies, Greece and Turkey. And at stake is a small country's right to govern itself, free from outside pressure and occupation.

Mr. President, for 17 years, the people of Cyprus have waited for an end to the unnatural division of their island. President Bush's statement is a hopeful sign that the administration is willing to work, at the highest level, for a settlement.

I sincerely hope that the President's words were not merely empty rhetoric, devised to please the audience of the moment, but a firm and solemn commitment to catalyze a peaceful settlement of the Cyprus question. As chairman of the Subcommittee on European Affairs, I will be closely monitoring developments on this issue, and stand ready to work with the President to bring an end to this horrible tragedy.

U.S. POLICY ON BALTIC STATES: RHETORIC VERSUS REALITY

Mr. DECONCINI. Mr. President, in compliance with Public Law 101-309, the administration recently submitted its report on U.S. Government actions in support of the peaceful restoration of independence for the Baltic States.

The document asserts that—

> In the wake of Soviet pressure against the Baltic States, our Government has undertaken a vigorous diplomatic effort designed to both help avert future violent confrontations in the Baltic States and to enable the Baltic people to realize their legitimate but long-denied aspirations.

Perhaps, but I would suggest that the administration's efforts have been somewhat less than vigorous. Let us examine some of the points made in the President's report.

The document refers to statements previously made by Secretary Baker, in which the Secretary is quoted as saying that the United States supports granting Estonia, Latvia, and Lithuania observer status at CSCE meetings. But the administration has consistently refused to take the lead in proposing observer status until all the other delegations at CSCE, including the Soviet Union, agree to support the proposal. In other words, we accede to Moscow a veto on our proposals before we even raise them. We have never operated this way in CSCE before. Is this reticence part of the New World Order, an order in which we fatalistically follow the lowest common denominator?

The United States should formally propose CSCE observer status for the Baltic Governments irrespective of what we think Moscow will say. I would consider that a mark of vigorous diplomatic leadership. By playing a leadership role on this issue, we could have a major impact on the issue of observer status for the Baltic States.

The administration report also states that since mid-January 1991 the President and Secretary of State have repeatedly raised the issue of the violence in the Baltic States that has taken at least 21 lives. I am pleased to hear this, but apparently raising these matters has not prompted Mr. Gorbachev to tell his Interior Minister, Mr.

Pugo, to call off his black beret forces in the Baltics. Beginning late April and continuing to the present, these special forces have been burning and harassing customs posts on the Baltic borders. This violence has abated somewhat on the eve of Mr. Gorbachev's foraging expedition to London, and Moscow has asked Mr. Pugo to investigate the customs posts raids, which sounds to me like asking the fox to investigate who's been stealing the chickens from the coop.

So far investigations have done nothing to change a policy under which the Vilnius TV tower is still occupied and the border post harassments continue. On June 3, 1991, the Moscow-based Soviet procuracy produced a contemptible investigative report that essentially blamed the Lithuanian people for the deaths in Vilnius on the night of January 12–13, 1991. The State Department response was to find the conclusions of the report "at odds with the facts," a somewhat tepid response in my opinion. The administration should have told Moscow that agricultural credits, most-favored-nation trade status, grand bargains, ruble conversion support, et cetera, will be at odds with the facts as long as Moscow's forces in the Baltics continue to terrorize the population and the democratically elected governments of those countries.

With respect to President Bush's determination to grant MFN status to the Soviet Union, I find the administration's approach to this issue difficult to characterize as vigorous support for the Baltics.

The administration has informed the governments of the Baltic States that MFN for the Soviet Union will extend de facto to their territories, that the inclusion is an interim measure, and that the Baltic States "may count on our continued efforts to encourage the Soviet government to maintain a dialog with you."

And in case the Baltic States have any illusions about their inclusion, the administration adds, and I quote:

> If you work either to exclude the Baltic States from inclusion in the trade agreement and MFN, or block passage of the agreement, that could make our task and yours more difficult.

I find the arrogance of this statement appalling. How can the United States which has for more than 45 years passionately refused to recognize the forcible incorporation of the Baltic States into the Soviet Union, now admonish these countries because they do not wish to be included in a treaty which does not recognize them as having any right to represent their own interests?

Understandably, the Foreign Ministers of Estonia, Latvia and Lithuania have written to the President and asked him to exclude the Baltic States from the MFN territorial status of the USSR. Otherwise, they write, "good faith negotiations between the Soviet Union and the Baltic States may be delayed indefinitely." I hope the administration will take this plea for continued recognition of the fact the Baltics are not part of the Soviet Union into consideration and simply reactivate the MFN status already in effect for the Baltics. I am sure Congress will be happy to assist in remedying any technicalities which could be viewed by those in the administration who wish to hide behind them as impediments to reviving MFN status for the Baltics.

Mr. President, as chairman and cochairman of the Commission on Security and Cooperation in Europe respectively, Congressman HOYER and I have introduced resolutions Senate Joint Resolution 89 and House Joint Resolution 179. Senate Joint Resolution 89, calls upon the administration to:

First, establish an American presence, such as information offices, in each of the Baltic States;

Second, to channel U.S. Government and private assistance directly to the Baltic States;

Third, recognize and establish direct contacts with the Parliaments of Lithuania, Latvia, and Estonia as the legitimate, freely elected and democratic representatives of the peoples of the Baltic States, and

Fourth, to propose observer status for the Baltic States in the CSCE at the very next opportunity.

We believe these steps will further the Baltics' fight for freedom.

Mr. President, all of us in the Congress recognize the many challenges which the new Europe poses for lasting peace and stability in the region, indeed the world. But the stability we are all seeking will not be achieved by supressing the right of peoples to freely determine their own futures through peaceful, democratic means. I fail to understand why the administration persists in giving the unelected Moscow establishment greater support and credibility than leaders in the Baltic States and many of the Republics whose authority to govern comes from the people themselves. Perhaps the real question we should be debating is the definition of stability. Is it a comfort zone defined by an unelected head of state who threatens instability if he isn't given what he wants or is it based on the courage of those who have already demonstrated their commitment to the pursuit of real democracy? I prefer to put my faith and support on the latter.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,316th day that Terry Anderson has been held captive in Lebanon.

Yesterday, Islamic Jihad renewed its demand for the release of the Hamadi brothers. One of the Hamadi brothers was convicted for the hijacking of TWA flight 847 and the murder of Robert Stethem. The other for participating in the kidnaping of two German hostages.

The group also released a photograph of Terry Anderson, as is its custom, to establish its bona fides. And although the official statement did not mention Terry Anderson, the photograph was disturbing. In an interview with the Associated Press, Terry Anderson's sister, Peggy Say noted that the picture was at least several months old and that her brother was thinner than in earlier photographs and unshaven.

Although we cannot know what the Islamic Jihad has in mind with their latest demand, we do know that Terry Anderson and his family have suffered a grave injustice, and I ask my colleagues to join me in demanding his safe return.

Mr. President, I ask unanimous consent that a New York Times report on this subject be printed in the RECORD at this time.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PRO-IRAN GROUP ISSUES PHOTO OF U.S. HOSTAGE

(By Ihsan A. Hijazi)

BEIRUT, LEBANON, July 18.—Pro-Iranian kidnappers released a photograph of an American hostage, Terry Anderson, here today to back up a threat to German authorities over the treatment of two convicted Lebanese Shiite Muslims in German prisons.

The statement, by the Islamic Holy War organization, made no mention of Mr. Anderson, the longest held of 12 Western hostages in Lebanon.

Mr. Anderson, shown in the photograph with a beard, was the chief Middle East correspondent of The Associated Press when he was abducted in West Beirut on March 16, 1985. He appeared angry in the Polaroid picture distributed with the statement to newspaper and wire service offices.

The group, believed to consist of Lebanese Shiites affiliated with Teheran, warned the German authorities of dire consequences if harm should come to the brothers Abbas and Mohammed Ali Hamadi. It accused the German Government of being subservient to the policies of Americans and of the Jews in the world. The United States was criticized strongly and told that it would pay for the "black crimes it has committed against the downtrodden in the world."

STABBED IN GERMAN PRISON

The state prosecutor's office in Saarbrücken, Germany, said that Abbas Ali Hamadi was stabbed in the head, shoulder and stomach last Monday with a needle used in the prison workshop. He was treated for slight injuries, a spokesman for the state prosecutor said, adding that the dispute appeared to have been over a supposed theft. He did not say what had happened to the other inmate.

Abbas Hamadi was jailed for 13 years in 1980 in Germany for involvement in the kidnapping of two German businessmen, Rudolf Cordes and Alfred Schmidt, in Lebanon; they were subsequently freed.

Two Germans are among the Western hostages here, besides six Americans, three Britons and one Italian.

Abbas's brother Mohammed Ali is in jail in Frankfurt after being convicted in the 1985 hijacking of a Trans World Airlines plane to Beirut Airport.

The Holy War group says it holds another American, Thomas Sutherland, hostage. Mr Sutherland, deputy dean of the school of agriculture at the American University of Beirut, was seized on the airport road in June 1985.

ISRAELI PRISONER EXCHANGE SOUGHT

A group also calling itself Islamic Holy War issued a statement from its headquarters in Amman, Jordan, today saying it was ready to help in a prisoner exchange involving Israeli prisoners and Arabs held by Israel.

The statement said the organization was acting in coordination with the Islamic resistance movement in Lebanon led by the Party of God and was prepared to arrange International Red Cross visits to the Israelis.

But it first wants Israel to release four Muslim prisoners from the Gaza Strip and to give a promise to free all other detainees.

RECESS UNTIL 1:30 P.M.

The PRESIDING OFFICER. The Chair, in his capacity as a Senator from the State of Nevada, at the request of the majority leader, now asks unanimous consent that the Senate stand in recess until 1:30 p.m. today.

Without objection, the Senate will be in recess until 1:30 p.m. today.

There being no objection, the Senate, at 11:02 a.m., recessed until 1:30 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. KERREY].

The PRESIDING OFFICER. The Senate will come to order. The Chair, in his capacity as the Senator from Nebraska, suggests the absence of a quorum.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New York is recognized.

Mr. MOYNIHAN. Mr. President, as Senators will know from the long and careful reports in yesterday's press, the Senate Labor and Human Resources Committee on Wednesday rejected by one vote the controversial nomination of Carol Iannone to the advisory council for the National Endowment for the Humanities. The view of the majority appears to have been that Dr. Iannone had insufficient citations in the Arts and Humanities Citation Index and the Social Science Citation Index. It was also alleged that her principal publications have appeared in Commentary magazine. It was never clear to me whether the objection to Dr. Iannone was that she had ever published in Commentary, or that she had done so insufficiently. No matter, I rise merely to express my disappointment on behalf of Dr. Iannone, and melancholy acknowledgement of the further intellectual decline of the Democratic Party. I almost said demise, but will leave bad enough alone.

A curious allegation: merely a Commentary writer. And in ways, a revealing one about our capital. Just to say it out loud is to realize that just possibly Washington is the only capital in the Western world in which such an allegation would be made with intent to harm. In London, Paris, Rome, Stockholm, to say of a professor of literature that his or her principal work has appeared in Commentary is—well—to say that this is a critic of the first rank. In the tradition, say, of Lionell Trilling.

Commentary is, as its cover states, "Published By The American Jewish Committee." It was founded, as a recall, in 1945—thereabouts—by the legendary Elliot E. Cohen who was editor until his death in 1959. He was thereupon succeeded by Norman Podhoretz, who remains editor to this day, assisted by Neal Kozodoy, Marion Magid, and Brenda Brown. They have equals, one should not doubt, in the world of literary criticism. But that said, the matter rests. None surpass them.

Ours is a political world down here, and these matters do not routinely enter our thoughts, much less our conversation. This despite the fact that from the first, Commentary writers have had pronounced political views. This again may be more a European than an American style, but then New York has always had a special association with European thought which the rest of the Nation has not failed to notice.

I distinctly recall, and knowing his great good nature, I am sure he will not object to my relating, a trip to New York City in May 1977 with then Vice President Mondale. The spring recess was about to begin and he was off to one of his beloved Minnesota lakes where his tackle box and bass gear awaited him. He had been asked to stop in New York on his way home to speak at the dedication of a new facility at Sloan-Kettering Hospital. Hubert Humphrey had been treated there the previous year and there was, of course, nothing he or any other Member of the Senate would not do for Hubert. I assume it is correct to refer to the Vice President as one of us. He is, after all, our Presiding Officer. The Vice President, as was his great courtesy—which I could wish had become a custom of that office—asked if I would like to ride up with him. I was heading home as well, and would naturally want to be on hand at Sloan-Kettering. Anyway, I got out to Andrews a few minutes before Fritz arrived, and settled down aboard Air Force Two with a cup of coffee and the new Commentary. The cover featured a major article on Soviet politics by a friend of mine who was then teaching at Harvard. I thought it first-rate, and mentioned it to the Vice President when he got aboard. He asked if he could take it with him on his vacation, to which, of course, I agreed. That afternoon I called Norman Podhoretz. I said:

Norman, I have some good news and some bad news. The good news is that the Vice President of the United States is taking the new issue of Commentary with him to read over his vacation. The bad news is that until this morning the Vice President of the United States had never heard of Commentary.

I have to believe that things have not much changed in the intervening 15 years. In the Senate, that is. Mind, the Washington Post knows about such matters. It is not so long ago that the Post called Commentary "America's most consequential journal of ideas." Which is fairly restrained by the standards of the Toronto Daily Star, which once declared:

It [Commentary] is the best monthly in the English-speaking world.

This is the journal Professor Iannone is accused of writing for. Well, there you are.

Well, no. There is more. My distinguished friend, the Senator from Utah, touched upon the matter in a remark that appeared in yesterday's Post. In an exchange in the Committee on Labor and Human Resources, he defended Professor Iannone's qualifications stating:

She's from a first-generation, immigrant, working class family. * * * And she's only 43 years old.

Senator HATCH may know more than even he realizes. For it is the distinctive feature of Commentary that to a degree that I cannot imagine has any contemporary or historical equivalent, Commentary has published the work of young writers born into or raised among the working classes of New York City. Many of them were and are Jewish, as is only natural for a journal published by the American Jewish Committee. Many had grown up in the Marxist milieu that was so common in New York in the years 1920–50. Some had been Marxists, frequently Trotskyites. Others had been anti-Marxists but as young Robert Warshow, a Commentary writer in the 1940's—who died much too young—observed, either way your life was caught up with that subject. And so issues of the political left received inordinate attention in Commentary. But with this difference. Those writing about The Workers actually knew some. The Irving Kristols and Nathan Glazers—to name but two of a succession of major American intellectuals who were editors at Commentary—grew up in the working class neighborhoods of New York City. A setting as natural to them as the salons of their radical counterparts in Paris or Berlin. Or Greenwich Village. I recall once visiting W.H. Auden in the Village. He was living in the building from which Trotsky had published Novy Mir

before the Russian revolution, a thought which gave the great British poet much satisfaction. As it would any Oxford graduate. Trotsky was, after all, a literateur. A bohemian. He would never, however, have made a Commentary writer. Too refined.

I ought to declare my interest here. I first appeared in Commentary—Lord save us—30 years ago this May. My article, which Norman Podhoretz features on the cover, was entitled "Bosses and Reformers: A Profile of the New York Democrats." I had been involved in New York Democratic politics for some years by then. I had watched the developing divisions within the Democratic Party as between its working class, mostly Catholic, traditional constituency, and a new group of middle or upper middle class, mostly Protestant and Jewish, professionals who were challenging the old-time leaders. Denigrated, of course, as "bosses." This was something new. With rare exceptions, such scions as Herbert Claiborne Pell, Jr., father of our revered senior Senator from Rhode Island, a Member of Congress from Manhattan, and from 1921–66 chairman of the State Democratic Committee. As New Yorkers moved into the middle classes, they left the Democratic Party in this century. The Irish were even then departing, as Glazer and I wrote in "Beyond The Melting Pot: The Negroes, Puerto Ricans, Jews, Italians, and Irish of New York City." But something in the Jewish tradition said otherwise. Middle-class professionals they may be, or may have become, but they remained Democrats. But, as Bernard Shaw might say, with different tastes.

This conflict was adumbrated in the doomed Presidential races of Adlai Stevenson in 1952 and 1956. But all hell broke out over the nomination of John F. Kennedy for President in 1960. Kennedy was a Catholic; Kennedy was a conservative. And his brother—well. The first statement was a fact, the second a perception. But among New York liberals perceptions are facts. And so the word went forth from Eleanor Roosevelt, Thomas K. Finletter, and yes, our beloved Governor Herbert Lehman, that Kennedy would not do. The reformers hated and feared him. Not least because the "bosses" supported him. Now these bosses were, generally speaking, perfectly democratic Democrats, such as Charlie Buckley of the Bronx, our grand old colleague Gene Keogh of Brooklyn, even the legendary Dan O'Connell of Albany. Well, in the latter case, I suppose, a real boss as well as an alleged one. Kennedy was the overwhelming favorite in our party. But not of the reformers. The scenes in the Los Angeles Convention were tumultuous, often painful. Even if, as I recall, the reformers had only 2½ votes, all pledged to Stevenson. I was a Kennedy delegate in Los Angeles—an alternate delegate, actually, but I have in my Senate office a small framed emerald green badge that says: "Delegate for Kennedy," with my name written below. But I had friends in the reform camp. When it was all over and the wounds, if anything, worse, it seemed to me a useful thing to try to explain this to the respective parties, neither of which really understood the other. There was no better place to publish such an article than Commentary, and I was thrilled when Norman Podhoretz accepted it. No, Mr. President, I haven't got that quite right. It was not just that Commentary was the best place to publish it, it was also the only place that would. A journal such as the Atlantic or Harpers just wouldn't be interested in what working class Democrats thought.

That is the point I would hope to make. My good friend from Utah was absolutely right. I very much fear Professor Iannone's troubles arose not from the quality of her work, but from her genes, social and otherwise. She is an Italian, Catholic ethnic with a working class background.

Yesterday's Wall Street Journal carried an absorbing review by David Brock of Aaron Wildavsky's new book, "The Beleaguered Presidency." Professor Wildavsky, lost now amongst the lotus eaters of Berkeley, retains the street-wise toughness of a native New Yorker. And he can spot what is going on among Democrats. What is going on is the logical extension of the trends I tried to describe in Commentary 30 years ago. To wit, the Democrats are becoming a "party that delegitimized the Nation's second largest constituency—white, working, Christian males."

I suppose the second largest such group would be the female of that species. In any event, Professor Iannone has had a setback on account of it. But I dare to hope that she will not take it personally. I do not know her, but I know some of her work. From Commentary, obviously. I sense that quality William James described as toughmindedness. Actually, the future should be bright. She has been banned in Boston. No greater fortune ever attended the struggling novelist of the 1930's. Sales would soar outside of Boston. Professor Iannone has now been banned in the Democratic Party. What greater fortune could befall an American intellectual in this decadent fin de siecle. I wish her well.

Mr. President, I wish her well.

Seeing no Senator seeking recognition, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the will roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. REID). Without objection, it is so ordered.

MEASURE PLACED ON CALENDAR—HOUSE CONCURRENT RESOLUTION 113

Mr. MITCHELL. Mr. President, I ask unanimous consent that House Concurrent Resolution 113, a concurrent resolution regarding the use of driftnets, just received from the House, be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE DISCHARGED FROM FURTHER CONSIDERATION AND BILL PLACED ON CALENDAR—S. 884

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Commerce Committee be discharged from further consideration of S. 884, the Driftnet Moratorium Enforcement Act of 1991, and that the measure then be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting a nomination which was referred to the Committee on Banking, Housing, and Urban Affairs.

(The nominations received today are printed at the end of the Senate proceedings.)

MEASURES PLACED ON THE CALENDAR

The Committee on Commerce, Science, and Transportation was discharged from the further consideration of the following bill which was placed on the calendar:

S. 884. A bill to require the President to impose economic sanctions against countries that fail to eliminate large-scale driftnet fishing.

The following concurrent resolution, previously received from the House of Representatives for concurrence, was read the first and second times by unanimous consent, and placed on the calendar:

H. Con. Res. 113. A concurrent resolution to express the sense of the Congress that the President should seek an international moritorium on the use of large-scale driftnets called for in United Nations Resolu-

tion 44-225, while working to achieve the United States policy of a permanent ban on large-scale driftnets.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Labor and Human Resources, without amendment:

S. 1088: A bill to amend the Public Health Service Act to establish a center for tobacco products, to inform the public concerning the hazards of tobacco use, to provide for disclosure of additives to such products, and to require that information be provided concerning such products to the public, and for the other purposes (Rept. No. 102-112).

By Mr. NUNN, from the Committee on Armed Services, without amendment:

S. 1507: An original bill to authorize appropriations for fiscal years 1992 and 1993 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes (Rept. No. 102-113).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BROWN:

S. 1502. A bill to extend until January 1, 1995, the suspension of duties on certain glass fibers; to the Committee on Finance.

By Mr. NUNN (for himself Mr. ROTH, Mr. LEVIN, and Mr. SASSER):

S. 1503. A bill to amend the Higher Education Act of 1965 to provide more stringent requirements for the Robert T. Stafford Student Loan Program, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. INOUYE (for himself, Mr. HOLLINGS, Mr. STEVENS, Mr. BENTSEN, Mr. KERRY, and Mr. BURNS):

S. 1504. A bill to authorize appropriations for public broadcasting, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. DECONCINI (for himself, Mr. HATCH, Mr. MCCAIN, Mr. SHELBY, Mr. KENNEDY, Mr. HOLLINGS, Mr. BRADLEY, and Mr. METZENBAUM):

S. 1505. A bill to amend the law relating to the Martin Luther King, Jr. Federal Holiday Commission; to the Committee on the Judiciary.

By Mr. GLENN (for himself and Mr. HATCH):

S. 1506. A bill to extend the terms of the olestra patents, and for other purposes; to the Committee on the Judiciary.

By Mr. NUNN from the Committee on Armed Services:

S. 1507. An original bill to authorize appropriations for fiscal years 1992 and 1993 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. NUNN (for himself, Mr. ROTH, Mr. LEVIN, and Mr. SASSER):

S. 1503. A bill to amend the Higher Education Act of 1965 to provide more stringent requirements for the Robert T. Stafford Student Loan Program, and for other purposes; to the Committee on Labor and Human Resources.

REFORM OF GUARANTEED STUDENT LOAN PROGRAM

• Mr. NUNN. Mr. President, with the education of our young people occupying such a vitally important place in our Nation's future growth and well-being, and in view of Congress' current consideration of the 5-year reauthorization of the Higher Education Act, I rise today to introduce legislation to reform the Guaranteed Student Loan Program.

This legislation is the direct result of the Senate Permanent Subcommittee on Investigation's recently completed, yearlong examination of major problems—and, particularly those involving so-called proprietary or career training schools—in the U.S. Department of Education's Guaranteed Student Loan Program [GSLP]. In the course of its investigation, the subcommittee held 8 days of hearings, at which testimony was received from scores of witnesses representing all involved Guaranteed Student Loan Program institutions and interests.

These hearings painted a dramatic and highly disturbing picture of a well-intentioned program gone awry, with devastating effects on America's young people and taxpayers. The subcommittee, for example, found that while GSLP volume almost doubled between 1983 and 1989—from $6.8 to $12.4 billion—during the same period loan defaults increased by more than 300 percent—from $444.8 million or just under $2 billion. As a direct result, the cost of defaults jumped from 10 percent to 50 percent of total program costs during the 1980's, so that currently more than half of the Government's GSLP Program costs go to pay for past loans gone sour, rather than to support the education and training of today's students.

The hearings were filled with examples of the kinds of program failures and abuses that led to the sad state of affairs reflected in the above statistics. For instance, the subcommittee learned about large numbers of proprietary schools that saw the 1980's, in the words of one school owner, as an "opportune time to be crooked." Consider, for example, the following schools, all of whom participated in the Guaranteed Student Loan Program:

A Florida school with nursing assistant and respiratory therapy programs, which was colocated with a store that sold records and X-rated video tapes. Upon entering the school a visitor also could not help but notice an incense-burning voodoo altar in the owner's office and that access to the classroom was nothing more than a hole in the wall;

A truck driving school headquartered in Indiana, which during the 1980's enrolled close to 100,000 students, almost all of whom used Federal student aid funds to pay for their tuition. At one of this school's branches, more than 40 percent of its 31,000 students defaulted on their loans, to the tune of some $27 million;

A Houston, TX, brick- and tile-laying school that in less than 10 months, between 1988 and 1989, ran almost 600 students through its courses, with a cumulative loan volume that exceeded $3 million. Many of these students had been recruited from homeless shelters in Dallas, San Antonio, and New Orleans by means of false promises of free housing and monthly living allowances while they completed their training;

An Ohio auto repair school that operated out of a fruit stand and a California auto repair school without a garage, tools, or cars to work on—that charged $5,500 for a 3-month course.

How these schools, and hundreds more like them, gained access to GSLP funds was also an essential part of the subcommittee's investigation. The testimony presented confirmed that the three-tier process—commonly known as the triad—of State licensure, accreditation, and eligibility/certification, has failed badly by allowing inadequately prepared schools to get into the GSLP and permitting problem schools to remain in the program even after major abuses have been found. Indeed, the Department of Education's inspector general testified that the triad was often little more than a paper chase, while a legal services attorney from New York City referred to it as a fundamentally flawed system, which sometimes seemed aligned against the student-consumers' interests.

The subcommittee's investigation also revealed extensive problems and abuses on the part of the GSLP's financial intermediaries—lenders, guaranty agencies, loan servicers, and secondary market organizations. For example, the subcommittee found instances where GSLP loans had been made despite obviously faulty identifying information: For instance, a student whose address was listed at a motel in Connecticut; a Kentucky student with an "unknown" listed address; and, a student at 403 Cant Read, Pritchard, AL. The subcommittee also examined perhaps the largest single fiasco involving the GSLP—the collapse of the First Independent Trust Co. [FITCO] of Sacramento, CA, at one time the second largest lender of GSL's in the Nation. FITCO's failure directly affected other major GSLP financial players—for example, the now-defunct Higher

Education Assistance Foundation—a guaranty agency—the California Student Loan Finance Corp.—a secondary market organization—and United Education and Software—a loan servicer—and will result in hundreds of millions of dollars in losses to the taxpayers.

Finally, as part of its investigation, the subcommittee scrutinized the U.S. Department of Education's management of the GSLP, finding its performance to be grossly inefficient and ineffective in virtually every area of its GSLP-related responsibilities. Indeed, as the following examples indicate, virtually every witness that testified at the subcommittee's hearings described instances of gross mismanagement, ineptitude, and/or neglect on the part of the Department:

In connection with its responsibility to determine a school's eligibility to participate in the GSLP, the Department failed to follow its regulations that require each institution to have its status in this regard updated at least every 4 years. As of December 1989, 4,555 schools were overdue for this redetermination and none of them had been terminated for not responding to an update request.

Making a mockery of its requirement that a school's financial and administrative capabilities to participate in the GSLP be certified, between 1985 and 1988, the Department's Certification Branch approved 97 percent of the 2,087 institutions it reviewed. By October 1988, about 800 certified schools were financially troubled and/or had administrative deficiencies.

Regarding loans made by FITCO—at one time one of the Nation's leading GSLP lenders—between 1984 and 1989, the Department failed to collect millions of dollars in origination fees owed the Government.

Between 1984 and 1988, when the GSLP was experiencing explosive growth and problems associated with this growth, Department lender reviews declined by 63 percent, from 763 to 282. At one point during this period, a former Department employee testified that his regional office had no travel funds and just three program officers to monitor 800 lenders located throughout California, Arizona, Nevada, Hawaii, and the trust territories.

It took the Department as long as 4 years to implement some GSLP-related regulations mandated by the 1986 Higher Education Act reauthorization. Likewise, the Department has been attempting to establish a guaranteed student loan database for at least 15 years, with little apparent success.

Communication/coordination is so poor that a school operating in an area under the control of one of the Department's regional offices can open a branch in another region without the latter ever knowing it. Communication/coordination problems were also noted in the Department's headquarters in Washington.

In terms of resources, expertise, and initiative, witnesses testified that the Department's enforcement efforts are woefully inadequate. For example, one school the subcommittee looked into was able to stay in business for more than 7 years, until State licensing authorities forced it to close, even though the Department found serious problems in its operations just a matter of months after it had been approved for GSLP participation.

Summarizing the hearings and yearlong investigation, the subcommittee last month issued its final report, "Abuses in Federal Student Aid Programs." This report concludes that, as a result of the extensive and pervasive problems identified in the investigation, both the GSLP's intended beneficiaries—tens of thousands of young people, many of whom come from backgrounds with already limited opportunities—and the taxpayers have suffered. The former have been victimized by hundreds of unscrupulous, dishonest, and inept proprietary schools, receiving neither the training nor the skills they hoped to acquire and, instead being left with debts they cannot repay. Likewise, the taxpayers have been billed for billions of dollars of losses in defaulted loans, while many school owners, accrediting bodies, and lenders and other financial players have profited handsomely, and in some cases, unconscionably. In sum, this vitally important program's credibility has been severely eroded and its future severely jeopardized. "In order for the GSLP to survive its current difficulties," the report states, "it is the subcommittee's view that nothing less than a comprehensive, intensive, and sustained effort to reform the program is needed." The report contains some 27 recommendations for further action, which the legislation I am introducing today is designed specifically to implement.

What follows is a section-by-section description of the legislation:

SECTION 1

Per report recommendations 20 and 21, this section prevents certain abuses by guaranty agencies, which have cost the taxpayers millions of dollars in unnecessary expenses, that are currently allowed under the Higher Education Act. For example, since guaranty agencies are not required to do so, they often purposely delay submitting claims for reimbursement for defaulted loans to the Department of Education from one fiscal year to the next. This practice, known as the arbitrage game, allows guaranty agencies with high default loan portfolios to escape intended trigger default penalties and increases the Government's reimbursement and interest subsidy costs. To correct this problem, this section requires that a guaranty agency which has made payment on a default claim must file for reimbursement from the Federal Government by the 45th day after making such payment or the 270th day after the loan became delinquent, whichever is later.

Currently, there is little incentive for guaranty agencies to aggressively collect on delinquent loans prior to default—since they can collect and retain a portion of the collected amount even after default and reimbursement. This section eliminates that practice by requiring that the guaranty agency, within 30 days of receipt of reimbursement, assign to the Secretary of Education the promissory note for the loan on which the reimbursement was made. In the event that the Secretary is subsequently successful in collecting any payment on the note from the borrower, this section further provides that the guaranty agency that received the reimbursement payment shall be liable to the Government for the costs subsequently incurred by the Government in collecting the payment from the borrower.

This section also provides that the Secretary shall not reimburse the guaranty agency in instances where a default claim is based on an inability to locate the borrower unless the agency, at the time of filing for reimbursement, demonstrates to the Secretary that diligent attempts have been made to locate the borrower through the use of all available skip-tracing techniques, including skip-tracing assistance from the Internal Revenue Service, credit bureaus, and State motor vehicle departments.

SECTION 2

Per report recommendation 18, this section provides that a lender may not sell the promissory note on a guaranteed student loan until all proceeds of the loan have been disbursed. Upon the sale of any such loan, both the seller and the purchaser of the loan would be required to notify the borrower as to the sale and its effect on the borrower. The subcommittee found numerous instances in which lenders sold promissory notes on student loans almost before the ink was dry on the paperwork. As a result, borrowers frequently did not know who ultimately held their loan, complicating repayment efforts and increasing the likelihood of default.

SECTION 3

Per report recommendation 12, this section strikes limitations imposed on the Secretary of Education's authority to impose civil monetary penalties upon lenders and guaranty agencies under section 432 of the Higher Education Act. It is aimed at helping to correct major deficiencies the subcommittee found in the Department's ability to act swiftly and decisively to cut program losses and take appropriate corrective and/or punitive actions, when abuse and/or fraud are found in the GSLP.

SECTION 4

In order to effectively implement, report recommendations 1, 2, 4, 5, and 7, this section redefines the term "vocational school" to consolidate the number of eligible domestic institutions into three categories: First, 2- and 4-year degree granting institutions; second, publicly owned and operated vocational schools; and third, proprietary trade schools. The new category of proprietary trade schools would include all private trade schools, whether for profit or nonprofit, and would also include those trade schools associated with a 2- or 4-year institution. This category, however, would exclude any correspondence, or home study school, or any school offering a correspondence or home study program.

By placing all private proprietary schools into one category, this section creates the framework to address the current problems of the proprietary school sector, which were so graphically documented in the subcommittee's hearings. For example, one of those problem areas—the failure of accrediting bodies to assure that the institutions they accredit are providing students with a quality education—is addressed by language calling for uniform minimum standards that all accrediting bodies concerned with proprietary schools would have to meet in order to be recognized by the Secretary of Education.

Finally, this section also amends the Higher Education Act's present due diligence provision, to require that due diligence be performed in connection with originating, as well as servicing and collecting, loans. This responds to the kind of problems revealed by the subcommittee' investigation, such as cases of loans made to students at unknown addresses, motel rooms, and the like. This provision is not intended, however, to require a lender to perform a credit check on potential student loan borrowers.

SECTION 5

Per report recommendations 24 and 25, this section provides for Government oversight of the Student Loan Marketing Association [Sallie Mae]. It provides that the Secretary of the Treasury, in consultation with the Secretary of Education, may exercise rulemaking authority over Sallie Mae, and that Sallie Mae provide the inspector general of the Department of Education with annual financial and compliance audits.

This section responds to testimony before the subcommittee, which raised questions about the relationship between Sallie Mae and the Guaranteed Student Loan Program. Although Sallie Mae is a Government-sponsored enterprise, no Federal agency presently regulates or oversees its business operations or financial soundness.

SECTION 6

Per report recommendation 9, this section adds new provisions to the Higher Education Act, setting forth the process and criteria under which a proprietary trade school shall be approved by a State higher education agency.

Testimony presented to the subcommittee established that State licensure, one of the key prerequisites for a school to participate in the GSLP, has failed to protect both the Federal Government and student borrowers for a number of reasons, including: a lack of uniform standards, fragmented responsibility, inadequate staff and resources, weak enforcement authority, political considerations, and due process constraints. Furthermore, since States are generally left with the power to set their own licensing requirements and education standards, there is no consistent definition of the educational prerequisites that need be satisfied in order to be licensed to operate a school. This section, therefore, calls for the establishment of a set of uniform minimum standards to be utilized by all States in granting licenses to proprietary schools, and places the authority to grant such approval in the hands of just one agency within each State.

SECTION 7

Per report recommendation 12, this section changes the Higher Education Act's current language, which requires the Secretary of Education to provide a hearing on the record, to providing for a hearing, in instances of: final audit or program review determinations; limitation, termination, or suspension proceedings; or, the imposition of civil penalties.

The Department's present procedures require that it afford a full evidentiary, administrative hearing in almost all instances in which it seeks to take adverse action against a school. The subcommittee heard testimony that this places time-consuming and resource-intensive burdens on the Department, which problem schools exploit so that the flow of Federal funds continues until the lengthy hearing on the record process is concluded. This section recognizes that in many instances, and in conformance with basic due process safeguards, relevant issues can be fairly and expeditiously addressed by written submissions and/or oral arguments.

SECTION 8

Per report recommendations 16 and 25, this section requires that all officers, directors, and other key employees of eligible institutions, lenders, guaranty agencies, loan servicing firms, accrediting bodies, State higher education agencies, and secondary markets, must report to the Secretary of Education on any financial interest such individuals may hold in any other entity participating in the GSLP. This provision responds to the subcommittee's finding that conflicts of interest among GSLP participants is an unacceptably common occurrence.

In addition, the section requires that all secondary market organizations and loan servicing firms undergo an annual financial and compliance audit, to be submitted to the Department's inspector general. This requirement responds to the subcommittee's finding that the Department does not adequately regulate or monitor the activities of these critically important GSLP financial intermediaries.

SECTION 9

Per report recommendation 10, this section amends title II of the Department of Education Organizational Act to create the position of Assistant Secretary for Student Financial Assistance and to establish an Office of Student Financial Assistance Oversight and Enforcement, which shall be administered by the Assistant Secretary. This provision responds to the subcommittee's finding that the Department's management of its GSLP responsibilities has been woefully deficient and is in dire need of a complete overhaul.

SECTION 10

Per report recommendation 14, this section authorizes the Commissioner of the Social Security Administration to assist the Secretary of Education in determining if prospective borrowers are using true and correct Social Security numbers when applying for guaranteed student loans. The subcommittee received testimony that considerable GSLP abuse could be avoided if Social Security numbers of potential borrowers are verified before a loan is originated.

SECTION 11

Per report recommendation 19, this section requires that, notwithstanding any other provision of law, if the Secretary of Education asks, pursuant to his oversight responsibilities for student financial assistance, any Federal or State financial regulatory agency for information pertaining to an institution participating in a title IV student financial assistance program, the latter shall provide the Secretary with the requested information. This provision responds to the considerable testimony heard by the subcommittee, which revealed major gaps in communication and coordination between and among the Department and the various State and Federal regulatory authorities with institutions participating in the GSLP.

SECTION 12

Per report recommendations 6, 12, 23, 26, and 27, this section provides for certain reports to Congress as follows:

First, the inspector general of the Department of Education shall review and report to Congress on the functions and effectivness of the Advisory Committee on Student Financial Assistance.

Second, the Comptroller General of the General Accounting Office shall review and report to Congress on the role of guaranty agencies in the Stafford Student Loan Program.

Third, the Secretary of Education shall report to Congress on the advisability of statutorily protecting officials of accrediting agencies involved in the legitimate performance of their activities. In addition, the Secretary shall report to Congress on the feasibility of setting limits on the type of proprietary trade school education that Federal funds should subsidize.

Fourth, the President, with the assistance of the Secretary of Education, shall report to Congress regarding how to: First, develop greater support and respect for skills training; second, determine what skills the United States needs; third, promote the most effective balance between skills training and academic forms of postsecondary education; and, fourth, develop the most useful balance between Federal loans and grants in the provision of skills training.

Mr. President, the Guaranteed Student Loan Program is a worthy, and worthwhile, program. Unfortunately, virtually none of the GSLP's major components is working efficiently or effectively. As a result, the GSLP's integrity has been severely compromised and its future may very well hang in the balance. Accordingly, with the aim of restoring the program's integrity and returning it to the well-intentioned purposes and goals which led to its creation, I ask my colleagues to support this legislation and thereby to assure that the Guaranteed Student Loan Program again becomes the vehicle for educating and training America's young people that it was intended to, and should always, be.

Mr. President, I have included with this bill a detailed section-by-section summary and I ask that it be printed in the RECORD along the bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1503

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. GUARANTEE AGREEMENTS.

(a) IN GENERAL.—Section 428(c) of the Higher Education Act of 1965 (hereafter in this Act referred to as the "Act") (20 U.S.C. 1078(c)) is amended—

(1) in paragraph (2)—

(A) by amending paragraph (D) to read as follows:

"(D) shall provide that a guarantee agency that receives reimbursement payment from the Secretary shall, within 30 days of receipt of such payment, assign to the Secretary the promissory note for the loan on which such payment has been made, and shall further provide that if the Secretary is successful in collecting any payment on such note from the borrower, then the guarantee agency that received the reimbursement payment shall be liable to the United States for the costs of collecting such payment;";

(B) by striking "and" at the end of subparagraph (F);

(C) by striking the period at the end of subparagraph (G) and inserting a semicolon; and

(D) by inserting the following new subparagraphs at the end thereof:

"(H) shall require a guarantee agency which has made payment on a default claim to file for reimbursement under this subsection by the 45th day after making such payment or the 270th day after the loan became delinquent with respect to any installment thereon, whichever is later; and

"(I) shall prohibit the Secretary from making any reimbursement under this subsection to a guarantee agency in instances where a default claim is based on an inability to locate the borrower, unless the guarantee agency, at the time of filing for reimbursement, demonstrates to the Secretary that diligent attempts have been made to locate the borrower through the use of all skip-tracing techniques, including skip-tracing assistance from the Internal Revenue Service, credit bureaus and State motor vehicle departments.";

(2) in paragraph (6)—

(A) by striking subparagraphs (A) and (D);

(B) by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively; and

(C) in subparagraph (A) (as redesignated in subparagraph (B)) by striking "this paragraph and"; and

(3) by amending paragraph (8) to read as follows:

"(8) FUNDS COLLECTED.—Any funds collected pursuant to subparagraph (D) of paragraph (2) shall be deposited into the fund established pursuant to section 431.".

(b) CONFORMING AMENDMENTS.—Section 428F(a) of the Act (20 U.S.C. 1078-6(a)) is amended by striking paragraph (4).

(c) TECHNICAL AMENDMENTS.—

(1) AMENDMENT TO PARAGRAPH HEADING.—The heading for paragraph (6) of section 428(c) of the Act (20 U.S.C. 1078(c)(6)) is amended by striking "SECRETARY'S EQUITABLE SHARE" and inserting "ADMINISTRATIVE COSTS".

(2) CROSS REFERENCES.—Section 428(1) of the Act (20 U.S.C. 1078(1)) is amended—

(A) by striking "(c)(6)(C)(i)(I)" and inserting "(c)(6)(B)(i)(I)"; and

(B) by striking "(c)(6)(C)" each place such term appears and inserting "(c)(6)(B)".

SEC. 2. REQUIREMENTS FOR DISBURSEMENT OF STUDENT LOANS.

Section 428G of the Act (20 U.S.C. 1078-7) is amended by adding at the end thereof the following new subsection:

"(g) SALES PRIOR TO DISBURSEMENT PROHIBITED.—

"(1) IN GENERAL.—An eligible lender shall not sell a promissory note for any loan made, insured, or guaranteed under this part until all proceeds of such loan have been disbursed.

"(2) NOTIFICATION.—The seller and purchaser of any loan made, insured, or guaranteed under this part shall notify the borrower at the time of the sale of any such loan as to the sale and the effect of such sale on the borrower.".

SEC. 3. LEGAL POWERS AND RESPONSIBILITIES.

Subsection (g) of section 432 of the Act (20 U.S.C. 1082) is amended—

(1) by striking paragraphs (2), (3), and (4); and

(2) by redesignating paragraphs (5) and (6) as paragraphs (2) and (3), respectively.

SEC. 4. DEFINITIONS.

(a) DEFINITIONS FOR STUDENT LOAN INSURANCE PROGRAM.—Section 435 of the Act (20 U.S.C. 1085) is amended—

(1) in paragraph (1) of subsection (a)—

(A) in subparagraph (B), by striking "or" at the end thereof;

(B) in subparagraph (C), by striking the comma at the end thereof and inserting a semicolon and "or"; and

(C) by inserting before the matter following subparagraph (C) the following new subparagraph:

"(D) a proprietary trade school,";

(2) in the matter preceding paragraph (1) of subsection (b), by inserting ", other than a proprietary trade school or a vocational school," after "educational institution";

(3) by amending subsection (c) to read as follows:

"(c) VOCATIONAL SCHOOL.—The term 'vocational school' means any public business or trade school, or public technical institution or other public technical or vocational school that—

"(1) provides training to prepare students for gainful employment;

"(2) admits as regular students only persons who have completed or left elementary or secondary school or who are beyond the age of compulsory school attendance in the State in which the institution is located;

"(3) is owned or operated by—

"(A) the United States or any instrumentality or agency thereof; or

"(B) a State or any political subdivision thereof;

"(4) has been in existence for 2 years; and

"(5) is accredited by a nationally recognized accrediting agency or association listed by the Secretary pursuant to this paragraph.";

(4) in subsection (f)—

(A) by striking "servicing" and inserting "making, servicing"; and

(B) by striking "collection practices" and inserting "making, servicing and collection practices"; and

(5) by inserting at the end thereof the following new subsection:

"(o) PROPRIETARY TRADE SCHOOL.—

"(1) IN GENERAL.—(A) The term 'proprietary trade school' means any business, trade, technical, or career school which—

"(i) provides training to prepare students for gainful employment in a recognized occupation;

"(ii) admits as regular students only persons who have completed or left elementary or secondary school or who are beyond the age of compulsory school attendance in the State in which the institution is located;

"(iii) is a private institution, including a private nonprofit institution or a private institution affiliated with an institution of higher education;

"(iv) is approved by the State in which the school operates pursuant to section 440(b);

"(v) has been in existence for at least 2 years; and

"(vi) is accredited by a nationally recognized accrediting agency or association listed by the Secretary pursuant to this paragraph.

"(B) For the purpose of this paragraph, the Secretary shall publish a list of nationally recognized accrediting agencies or associations which the Secretary determines to be reliable authority on the quality of training offered by a proprietary trade school. The Secretary shall not approve an accrediting agency or association which accredits proprietary trade schools in accordance with the provisions of this paragraph, unless such agency or association—

"(i) provides the Secretary with evidence of effective training of accrediting team members in the consistent application of ac-

creditation standards to proprietary trade schools;

"(ii) prohibits more than ⅓ of the members of such agency's or association's accreditation decisionmaking body from being affiliated with a proprietary trade school accredited by such agency or association;

"(iii) establishes detailed guidelines to address actual and potential conflicts of interest among such members of such agency's or association's accreditation decision-making body;

"(iv) evaluates and accredits separately each branch of a proprietary trade school seeking accreditation;

"(v) accredits a proprietary trade school for a period of not longer than 3 years at a time;

"(vi) conducts at least 1 unannounced site examination of each proprietary trade school during each period of such school's accreditation;

"(vii) publicly discloses when a proprietary trade school is due for accreditation or reaccreditation;

"(viii) revokes the accreditation of, or denies accreditation to, any proprietary trade school which has had its Federal certification or State approval denied or revoked during the preceding 24 months;

"(ix) notifies the Department, the appropriate State higher education agency, and other accrediting agencies or associations of all adverse actions taken against a proprietary trade school or the owners of such school, including the denial of accreditation; and

"(x) complies with any and all other standards promulgated by the Secretary for accrediting agencies or associations.

"(C) The Secretary, in consultation with representatives of accrediting agencies and associations, shall develop and make public uniform performance-based consumer protection standards which shall be applied by all accrediting agencies or associations which accredit proprietary trade schools. Such standards shall include standards on enrollments, withdrawal rates, completion rates, placement rates, and default rates.

"(2) HOME STUDY OR CORRESPONDENCE SCHOOLS.—The term 'proprietary trade school' shall not include a home study or correspondence school or any school which offers a home study or correspondence program.".

(b) GENERAL PROVISIONS RELATING TO STUDENT ASSISTANCE PROGRAMS.—Section 481 of the Act (20 U.S.C. 1088) is amended—

(1) in subsection (a)(1)—

(A) in subparagraph (A), by striking "institution of higher education" and inserting "trade school"; and

(B) in subparagraph (B), by striking "postsecondary vocational institution" and inserting "vocational school"; and

(2) by amending subsections (b) and (c) to read as follows:

"(b) PROPRIETARY TRADE SCHOOL.—For the purpose of this section the term 'proprietary trade school' has the same meaning given to such term in section 435(o).

"(c) VOCATIONAL SCHOOL.—For the purpose of this section the term 'vocational school' has the same meaning given to such term in section 435(c).".

SEC. 5. STUDENT LOAN MARKETING ASSOCIATION.

Section 439 of the Act (20 U.S.C. 1087-2) is amended—

(1) in paragraph (2) of subsection (h), by striking the second sentence and inserting the following: "The Secretary of the Treasury, in consultation with the Secretary, may make such rules and regulations as shall be necessary and proper to ensure that the purposes of this section are accomplished. The Secretary of the Treasury and the Secretary may examine and audit the books and financial transactions of the Association and may require the Association to make such reports on the Association's activities as the Secretary of the Treasury or the Secretary deem advisable.";

(2) in subsection (j)—

(A) by striking "REPORTING.—The" and inserting "REPORTING.—

"(1) FINANCIAL AUDIT.—The";

(B) in the third sentence thereof, by inserting "and the Secretary" after "Treasury"; and

(C) by inserting at the end thereof the following new paragraph:

"(2) COMPLIANCE AUDITS.—(A) The Association shall provide for the conduct of a compliance audit annually. Such audit shall be performed by an independent certified public accountant in accordance with Federal Government auditing standards. The purpose of the audit shall be to determine the Association's compliance with the provisions of this Act.

"(B) The independent certified public accountant conducting the audit described in subparagraph (A) and the Inspector General of the Department of Education shall have access to all books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the Association that such auditor determines necessary to facilitate the audit.

"(C) A report on the audit conducted pursuant to this paragraph shall be made by the auditor and a copy of such report shall be sent to the Inspector General of the Department of Education.".

SEC. 6. APPROVAL OF PROPRIETARY TRADE SCHOOLS.

Part B of title IV of the Act is amended by inserting at the end thereof the following new section:

"SEC. 440. APPROVAL OF PROPRIETARY TRADE SCHOOLS.

"(a) STATE APPROVAL REQUIRED.—

"(1) STATE APPROVAL REQUIRED.—(A) In order to be eligible to participate in the program assisted under this part the State higher education agency for the State in which a proprietary trade school is located shall approve such school in accordance with the provisions of this subsection.

"(B) The approval described in subparagraph (A) shall consist of a qualitative review and assessment of the school's facilities and activities, including on-site inspection of the school.

"(C) A State higher education agency may approve a school for a period of not more than 3 years.

"(2) APPLICATION.—(A) Each proprietary trade school desiring the approval described in paragraph (1) shall submit an application to the State higher education agency at such time, in such manner and accompanied by such information as the State higher education agency shall reasonably require. Each such application shall contain assurances that the school has met each of the criteria described in paragraph (3) in addition to any other criteria required by such State, and has complied with the provisions of this section.

"(B) The State higher education agency is authorized to charge an application fee for approval under this section.

"(3) STATE APPROVAL CRITERIA.—The criteria for approval by a State higher education agency shall include the following:

"(A) The quality and content of each course or program of instruction, training, or study may reasonably and adequately be expected to achieve the stated objective for which the course or program is offered.

"(B) There is in the school adequate space, equipment, instructional material, and instructor personnel to provide training of the quality needed to attain the objective of the course or program.

"(C) A copy of the course outline, schedule of tuition, fees and other charges, regulations pertaining to tardiness, absence, grading policy, and rules of operation and conduct is given to students prior to enrollment in the school.

"(D) The school maintains and enforces adequate standards relating to attendance, satisfactory academic progress, and student performance.

"(E) The school complies with all applicable regulations relative to the safety and health of all persons upon the school's premises, such as fire, building, and sanitation codes.

"(F) The enrollment of the school does not exceed an enrollment which the facilities and equipment of the school can reasonably accommodate.

"(G) The school's administrators and instructors possess the professional qualifications necessary to comply with applicable State requirements, and the school's officers, directors, and owners demonstrate financial and fiduciary responsibility, as prescribed by applicable State statute or regulation.

"(H) The school has a fair and equitable refund policy a copy of which has been provided to each student prior to enrollment.

"(I) The school publishes and makes available to the higher education agency and to all prospective students current information as to the withdrawal rate, completion rate, and loan default rate of the school's students.

"(4) REVOCATION.—If information comes to the State higher education agency's attention that a school no longer meets the criteria for approval, the State higher education agency may investigate and, upon sufficient grounds, initiate proceedings to revoke approval. If approval is revoked, the State higher education agency shall immediately notify the Secretary.

"(5) DEFINITION.—For the purpose of this subsection, the term 'higher education agency' means the officer of the agency primarily responsible for the State supervision of higher education.

"(b) SPECIAL RULE.—

"(1) IN GENERAL.—If a proprietary trade school or a branch of a proprietary trade school changes ownership resulting in a change in control of such school or branch, or if a proprietary school opens a branch of such school, then the school or branch, in order to be eligible to participate in the program assisted under this part, shall obtain separate certification, approval and accreditation in accordance with this section.

"(2) DEFINITION.—For the purpose of paragraph (1), the term 'change in ownership of a proprietary trade school that results in a change of control' means any action by which a person or corporation obtains new authority to control the actions of such school or branch. Such action may include—

"(A) the sale of such school or branch or of the majority of the assets of such school or branch;

"(B) the transfer of the controlling interest of stock of such school or branch or the parent corporation of such school or branch;

"(C) the merger of two or more of such schools or branches;

"(D) the division of one or more of such schools or branches into two or more such schools or branches;

"(E) the transfer of the controlling interest of stock of such school or branch to the parent corporation of such school or branch; or

"(F) the transfer of the liabilities of such school or branch to the parent corporation of the school or branch.".

SEC. 7. PROGRAM PARTICIPATION AGREEMENT.

Section 487 of the Act (20 U.S.C. 1094) is amended—

(1) in paragraph (2) of subsection (b), by striking "on the record";

(2) in subparagraph (D) of subsection (c)(1), by striking "on the record";

(3) in subparagraph (F) of subsection (c)(1), by striking "on the record";

(4) in subparagraph (A) of subsection (c)(2), by striking "on the record"; and

(5) in clause (i) of subsection (c)(2)(B), by striking "on the record".

SEC. 8. AUDITS.

Part G of title IV of the Act (20 U.S.C. 1088 et seq.) is amended by inserting the following new sections at the end thereof:

"SEC. 493. INDEPENDENT COMPLIANCE AND FINANCIAL AUDITS.

"(a) IN GENERAL.—Each loan servicing agency and entity acting as a secondary market shall provide for the conduct of a compliance and a financial audit annually. Such audits shall be performed by an independent certified public accountant in accordance with Federal Government auditing standards. The purpose of the audits shall be to determine such loan servicing agency's and such entity's compliance with the provisions of the Act.

"(b) ACCESS.—The independent certified public accountant conducting the audit described in subsection (a) and the Inspector General of the Department of Education shall have access to all books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by such loan servicing agency or such entity that such auditor determines necessary to facilitate the audit.

"(c) DEFINITIONS.—For purposes of this section and section 494—

"(1) the term 'loan servicing agency' means any entity that administers loans made under part B as contractual agents for the noteholders; and

"(2) the term 'acting as a secondary market' means engaging in purchasing and holding loans made under part B of this title for the purpose of providing lenders with a source of liquidity.

"(d) REPORTS.—A report on the audits conducted pursuant to this section shall be made by the auditor and a copy of such report shall be sent to the Inspector General of the Department of Education.

"SEC. 494. REPORTING REQUIREMENT.

"(a) IN GENERAL.—All officers and directors, and those employees and consultants of eligible institutions, eligible lenders, guaranty agencies, loan servicing agencies, accrediting agencies or associations, State higher education agencies, and entities acting as a secondary market, who are engaged in making decisions or providing advice as to the administration of any program or funds under this title or as to the eligibility of any entity or individual to participate under this title, shall report to the Secretary, in such manner and at such times as the Secretary shall require, on any financial interest which such individual may hold in any other entity participating in any program assisted under this title.

"(b) REGULATIONS.—The Secretary shall develop regulations to ensure compliance with the provisions of subsection (a).".

SEC. 9. ASSISTANT SECRETARY FOR STUDENT FINANCIAL ASSISTANCE.

(a) AMENDMENT TO THE DEPARTMENT OF EDUCATION ORGANIZATION ACT.—Title II of the Department of Education Organization Act (20 U.S.C. 3401 et seq.) is amended—

(1) in section 202(b)(1) by—

(A) striking "and" at the end of subparagraph (F);

(B) redesignating subparagraph (G) as subparagraph (H); and

(C) inserting immediately after subparagraph (F) the following new subparagraph (G):

"(G) an Assistant Secretary for Student Financial Assistance; and"; and

(2) by inserting at the end thereof the following new section:

"SEC. 216. OFFICE OF STUDENT FINANCIAL ASSISTANCE OVERSIGHT AND ENFORCEMENT.

"There shall be in the Department an Office of Student Financial Assistance Oversight and Enforcement, to be administered by the Assistant Secretary for Student Financial Assistance. The Assistant Secretary shall administer such functions affecting student financial aid assistance as the Secretary shall designate, including overseeing the activities of financial aid recipients.".

(b) AMENDMENT TO TITLE 5.—Section 5315 of title 5, United States Code, is amended by striking "Assistant Secretaries of Education (6)" and inserting "Assistant Secretaries of Education (7)".

SEC. 10. ASSISTANCE FROM THE COMMISSIONER OF SOCIAL SECURITY ADMINISTRATION.

The Commissioner of the Social Security Administration, or the Commissioner's designee, is authorized to assist the Secretary of Education in determining if borrowers of loans under the Robert T. Stafford Student Loan Program are using true and correct social security numbers when applying for such loans.

SEC. 11. INFORMATION REQUESTS.

Notwithstanding any other provision of law, upon request of the Secretary of Education, or his or her designee, to any Federal or State financial regulatory agency for information pertaining to an institution participating in any student financial assistance program assisted under title IV of the Higher Education Act of 1965 which is made pursuant to the Secretary's oversight responsibilities for student financial assistance programs under title IV of such Act, such financial regulatory agency shall provide the Secretary of Education with the information so requested.

SEC. 12. REPORTS.

(a) INSPECTOR GENERAL.—The Inspector General of the Department of Education shall review and report to the Congress within 6 months of the date of enactment of this Act on the functions and effectiveness of the Advisory Committee on Student Financial Assistance.

(b) COMPTROLLER GENERAL.—

(1) STUDY.—The Comptroller General of the General Accounting Office shall review the role of guaranty agencies within the Robert T. Stafford Student Loan Program, examining the administrative and financial operations of such agencies and the relationships between guaranty agencies and State governments.

(2) REPORT.—The Comptroller General shall report to the Congress within 1 year of the date of enactment of this Act on the study described in subsection (a). Such report shall consider and make recommendations concerning the feasibility of—

(A) increasing the role of guaranty agencies in oversight and licensing of proprietary trade schools under the Robert T. Stafford Student Loan Program;

(B) strengthening Federal disincentives for high default rate portfolios;

(C) consolidating guaranty agencies regionally or otherwise; and

(D) eliminating the role of guaranty agencies within the Robert T. Stafford Student Loan Program.

(b) SECRETARY OF EDUCATION.—

(1) STATUTORY PROTECTION FOR OFFICIALS OF ACCREDITING AGENCIES.—The Secretary of Education shall report to the Congress within 90 days of the date of enactment of this Act on the advisability of statutorily protecting officials of accrediting agencies involved in the performance of legitimate Robert T. Stafford Student Loan Program activities.

(2) PROPRIETARY TRADE SCHOOL EDUCATION.—The Secretary of Education shall report to the Congress within 6 months of the date of enactment of this Act on the feasibility of setting limits on the type of proprietary trade school education that Federal funds should subsidize, emphasizing education and training from which students and society shall realistically benefit.

(c) PRESIDENT.—The President, with the assistance of the Secretary of Education shall report to the Congress within 24 months of the date of enactment of this Act regarding how to—

(1) develop greater support and respect for skills training;

(2) determine what skills the United States needs;

(3) promote the most effective balance between skills training and academic forms of post-secondary education; and

(4) develop the most useful balance between Federal loans and grants in the provision of skills training.

SECTION-BY-SECTION SUMMARY OF S. 1503

SECTION 1. GUARANTY AGREEMENTS

Subsection (a) amends Section 428(c)(2) of the Higher Education Act of 1965 (the "Act") to provide that a guaranty agency which receives reimbursement from the Secretary shall, within 30 days of receipt of such reimbursement, assign to the Secretary the promissory note for the loan on which such reimbursement was made. If the Secretary is subsequently successful in collecting any payment on the note from the borrower, then the guaranty agency that received the reimbursement shall be liable to the United States for the costs of collecting the payment. Any funds collected in this manner shall be deposited into the fund established under Section 431 of the Act.

Subsection (a) further amends Section 428(c)(2) to require a guaranty agency which has made payment on a default claim to file for reimbursement by the 45th day after making such payment or the 270th day after the loan became delinquent, whichever shall be later, and to prohibit the Secretary from making reimbursement to a guaranty agency in instances where the default claim is based on an inability to locate the borrower, unless the guaranty agency, at the time of filing for reimbursement, demonstrates to the Secretary that diligent attempts have been made to locate the borrower through the use of all available skip-tracing techniques, including skip-tracing assistance from the Internal Revenue Service, credit bureaus, and State motor vehicle departments.

Subsection (b) makes conforming amendments.

Subsection (c) makes technical amendments.

SECTION 2. REQUIREMENTS FOR DISBURSEMENT OF STUDENT LOANS

This section amends Section 428G of the Act to provide that an eligible lender shall not sell a promissory note for any loan made, insured, or guaranteed under the Robert T. Stafford Student Loan Program until all proceeds of the loan have been disbursed. Upon the sale of any such loan, both the seller and the purchaser of the loan are required to notify the borrower as to the sale and the effect of the sale on the borrower.

SECTION 3. LEGAL POWERS AND RESPONSIBILITIES

This section amends Section 432(g) to strike those paragraphs which place limitations upon the Secretary's ability to impose civil penalties for violations of the Act.

SECTION 4. DEFINITIONS

Subsection (a) amends Section 435(c) to provide a new definition for the term "vocational school."

Subsection (a) also amends the requirement of "due diligence" contained in Section 435(f) to include a requirement of due diligence in the making, as well as the servicing and collecting of loans. The requirement of due diligence in the making of loans is not intended to require a lender to perform a credit check on student loan borrowers.

Subsection (a) further amends Section 435 to provide a definition for the term "proprietary trade school."

Subsection (a) also amends Section 435 to set forth the criteria upon which the Secretary may list accrediting agencies or associations which accredit proprietary trade schools.

Subsection (b) amends Section 481 of the Act by replacing the terms "proprietary institution of higher education" and post-secondary vocational institution" with the terms proprietary trade school" and "vocational school" respectively.

SECTION 5. STUDENT LOAN MARKETING ASSOCIATION

This section amends Section 439(h)(2) of the Act to allow the Secretary of the Treasury, in consultation with the Secretary of Education, to make such rules and regulations concerning the Association as may be necessary to achieve the purposes of the section. The Secretary of the Treasury and the Secretary of Education may also examine and audit the books and financial transactions of the Association and may, require the Association to make such reports on the Associations activities as they deem advisable.

The section also amends Section 439(j) to provide that a report of each annual audit of the Association be furnished to the Secretary of Education in addition to the Secretary of the Treasury.

The section further amends Section 439(j) to require that the Association have an annual compliance audit performed by an independent certified public accountant in accordance with Government Auditing Standards, and that a copy of such compliance audit shall be submitted to the Department of Education Office of Inspector General.

SECTION 6. APPROVAL OF PROPRIETARY TRADE SCHOOLS

This section amends Part B of Title IV of the Act by adding a new section 440 which sets forth the process and criteria under which a proprietary trade school shall be approved by a State higher education agency.

SECTION 7. PROGRAM PARTICIPATION AGREEMENT

This section amends Section 487 by changing all references to "hearing on the record" contained therein to "hearing."

SECTION 8. AUDITS

This section amends Part G of Title IV by adding a new Section 493 which requires that all secondary markets and loan servicing agencies shall have an annual financial and compliance audit performed by an independent certified public accountant in accordance with Government Auditing Standards, and that a copy of such audits shall be submitted to the Department of Education Office of Inspector General.

This section also amends Part G of Title IV by adding a new section 494 which requires that all officers and directors, and certain employees and consultants of eligible institutions, eligible lenders, guaranty agencies, loan servicing agencies, accrediting agencies or associations, State higher education agencies, and entities acting as a secondary market, shall report to the Secretary on any financial interest which such individual may hold in any other entity participating in any program assisted under Title IV.

SECTION 9. ASSISTANT SECRETARY FOR STUDENT FINANCIAL ASSISTANCE

This section amends Title II of the Department of Education Organizational Act to create the position of "Assistant Secretary for Student Financial Assistance" and to create an "Office of Student Financial Assistance Oversight and Enforcement" which shall be administered by such Assistant Secretary.

SECTION 10. ASSISTANCE FROM THE COMMISSIONER OF SOCIAL SECURITY ADMINISTRATION

This section authorizes the Commissioner of the Social Security Administration, or his or her designee, to assist the Secretary of Education in determining if borrowers of loans under the Robert T. Stafford Student Loan Program are using true and correct social security numbers when applying for such loans.

SECTION 11. INFORMATION REQUESTS

This section requires that, notwithstanding any other provision of law, upon the request of the Secretary of Education, or his or her designee, to any federal or state financial regulatory agency for information pertaining to an institution participating in any Title IV student financial assistance program which is made pursuant to the Secretary's responsibilities for student financial assistance programs under Title IV, such financial regulatory agency shall provide the Secretary with the requested information.

SECTION 12. REPORTS

Section (a) provides that the Inspector General of the Department of Education shall review and report to the Congress on the functions and effectiveness of the Advisory Committee on Student Financial Assistance.

Section (b) provides that the Comptroller General of the General Accounting Office shall review and report to the Congress on the role of guaranty agencies within the Robert T. Stafford Student Loan Program.

Section (c) provides that the Secretary of Education shall report to the Congress on the advisability of statutorily protecting officials of accrediting agencies involved in the legitimate performance of their activities. In addition, the Secretary shall report to the Congress on the feasibility of setting limits on the type of proprietary trade school education that federal funds should subsidize.

Section (d) provides that the President, with the assistance of the Secretary of Education shall report to the Congress regarding how to: (a) develop greater support and respect for skills training; (b) determine what skills the United States needs; (c) promote the most effective balance between skills training and academic forms of post-secondary education; and (d) develop the most useful balance between federal loans and grants in the provision of skills training.●

● Mr. ROTH. Mr. President, I rise today in support of the Nunn-Roth bill, which has been introduced today to amend the Higher Education Act of 1965 to provide more stringent requirements for the Robert T. Stafford Student Loan Program. I am pleased to join Senator NUNN and others as a sponsor of this important piece of legislation, which is a natural follow-up to hearings held by the Permanent Subcommittee on Investigations of the Governmental Affairs Committee. As ranking minority member of the subcommittee, I would like to take this opportunity to praise Senator NUNN, who, as chairman of PSI, conducted a thorough investigation of the many abuses which currently exist within our Nation's Federal student aid programs. I want to commend him for his longstanding interest and continued involvement in trying to develop solutions to the problems that exist within the Guaranteed Student Loan Program. In fact, I recall hearings over which Senator NUNN presided in 1975, when PSI examined this same topic and found similar problems, only on a much smaller scale. I know I speak for my colleagues and for the American people in applauding the leadership of Senator NUNN in this area, which is so critical in the development of our Nation's most valuable resource—our young people.

Mr. President, federally guaranteed student loan programs have helped America cultivate the human capital that is such an important component of our global economic competitiveness. And proprietary schools are an important part of that process. The training which many of these schools provide gives many young people legitimate prospects for a brighter future; people for whom that otherwise might not be possible. But unfortunately, as was revealed over the course of a long series of hearings, major problems currently exist within the Federal student loan programs, particularly regarding proprietary schools. It became clear that a disproportionate amount of problems in the GSLP were attributable to proprietary school student borrowers. We discovered that such borrowers suffer default rates that are twice that of 2-year institutions and four times the rate of 4-year schools. It was therefore disturbing to participate in this series of hearings. I listened to horror stories from numerous young people who have suffered at the hands of the unscrupulous proprietary

schools. I met young people who simply hoped to improve themselves, but instead were exploited by these institutions, many of which I hesitate to call educational in nature.

I received a letter yesterday from the godmother of a young woman who fell victim to just one such school, the Culinary School of Washington, DC, which offers training for aspiring chefs. Despite serious problems over an 8-year period—during which time its cumulative student loan volume reached $19 million—CSW retained its eligibility to participate in the GSLP. The letter I received yesterday begged of me, "Please do all taxpayers a favor and listen to my Godchild; she is so hurt by her experiences." The godchild wrote:

I never got the education I was promised and I was given student loans and I really didn't know. Now I'm in default with loan collectors harassing me and my family.

This young woman is probably only beginning to realize the terrible situation that CSW forced upon her. Lacking proper training and unable to find jobs, such students often default on their federally guaranteed student loans and thus suffer the added humiliation of seeing their credit ratings destroyed in the process. As in this example, the ultimate irony is that many young students don't realize they have a Federal loan until they are told they are in default. Unfortunately, this woman is one of a long list of aspiring students who have had their educational opportunities cut off as a result of the fraudulent activities of such proprietary schools. Ultimately it is the American taxpayer who bears the cost of these scams.

Given our enormous budget deficit, we can ill afford to wait any longer to address the fundamental problems in the student loan program. As defaults continue to rise, the need for action becomes increasingly urgent. Further, while the focus of the subcommittee's investigation, and this legislation, was on the loan program, I would add that it is more than likely that our Pell Grant System is being adversely affected as well. As my colleagues are aware, prior to qualifying under our loan programs, students must first be qualified for need through the Pell Grant Program, and when qualified, receive funds through this program first. As many of our proprietary students are from disadvantaged backgrounds, it is likely that they are receiving Pell Grants in addition to student loans. We must also attempt to stop waste, fraud and abuse in this area.

The legislation which has been introduced today is a much needed starting point in dealing with the extensive range of issues raised by our investigation. I would draw attention to two critical components of this legislation. First, a comprehensive set of criteria are established by which proprietary schools shall be approved by State higher education agencies. Currently, State licensing processes are simple business licensing procedures. We will now require that such schools do more than just pay a small fee in order to operate. They will now have to meet nine specific criteria which will ensure that these schools adhere to acceptable educational standards. Second, criteria are set forth by which trade school accreditors are listed. Unfortunately, accreditors have also gotten into the act in recent years, by being willing to accredit any school which is willing to pay a fee. Now we will help prevent these important players in the educational process from simply being bought.

A variety of other important initiatives are also packaged within this legislation, which provides Congress with an opportunity to make up for its failure to act to reduce the problem of student loan fraud, and the defaults that result. Many of my colleagues have been quick to assign all of the blame in this area to the Education Department. However, the Department cannot fully address this problem singlehandedly. Congress must accept its share of responsibility for failure to enact tougher measures to combat abuse in the student loan program. Fortunately, I believe there is now wider recognition that Congress can no longer afford to delay. A broad range of abuses have been identified, and Congress must work closely with the administration to remedy them.

I would like to advise my fellow Senators that the Department of Education is already beginning to move on this issue. on April 8 of this year it issued a blueprint for action to improve guaranteed student loan management. I am submitting a full copy of the 19-page report which was prepared jointly by OMB and the Education Department, and I ask unanimous consent that it be included in the RECORD at the conclusion of my remarks. The Department has announced a reorganization, and while it certainly needs the assistance of Congress to fully address these issues, it has taken some important steps in the right direction.

Finally, I would call the attention of my colleagues to the last section of this bill, which calls for the study of many crucial areas of the student loan program. The overall role of guarantee agencies will be examined by the General Accounting Office, which I urge to take a well-balanced and case-by-case approach to reviewing our functioning agencies. The GAO must avoid blanket characterizations of these institutions which ultimately place one or more of the guarantee agencies in a difficult financial position. Additionally, other reports will be forthcoming, which will hopefully provide the catalyst for further action on this subject. Certainly this legislation is only the beginning of a thorough evaluation of our Federal student aid programs.

Mr. President, I look forward to making the necessary improvements in order to ensure that the student aid program benefits our students and not unscrupulous wheeler-dealers and that the taxpayers do not become further exposed to losses in this program. Again, I commend the leadership of Senator NUNN in this area, and I am hopeful that we can continue to work together through final passage of this legislation and beyond.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

[April 1991]

IMPROVING GUARANTEED STUDENT LOAN MANAGEMENT: A BLUEPRINT FOR ACTION

INTRODUCTION

Long-simmering problems in the management of student financial aid programs—particularly the Guaranteed Student Loan (GSL) program—culminated last year in the financial collapse of the Higher Education Assistance Foundation (HEAF), a national Guarantor of student loans. The Department of Education (ED) acknowledge that its managerial practices contributed to high loan default rates, as well as fraud and abuse in the program, and recognized the need for restructuring and refocusing management. In addition, ED concluded that two issues deserved immediate attention: (1) the efficiency of the present system for certifying eligibility of schools and (2) the broader question of whether or not the Department's use of federally-staffed regional offices rather than the development of a strong state-level capacity could continue to be a viable approach.

PROBLEMS WITH THE PROGRAM

A review team, led by ED and the Office of Management and Budget (OMB), carefully examined GSL operations and concluded—as had the Department, Congress and others—that the current program has real problems. Among them:

Too many shoddy schools in the student aid programs. Statutes exist to prevent marginal schools from participating in the program, but ED has failed to use these statutes. One result of this failure has been an ever-increasing number of loan defaults, which are estimated to reach $2.7 billion in 1991. Another result has been abuse of the system—and outright fraud.

Inadequate guarantee agency oversight and management. This inadequacy was evident in the Department's failure to react to early indications and to take effective steps to prevent the collapse of a large guarantee agency, the Higher Education Assistance Foundation (HEAF). The HEAF collapse threatened the availability of loans to millions of students and cost the government at least $30 million. While the Department can manage a crisis, it is better to prevent a crisis from occurring.

Poor financial management capabilities. The General Accounting Office reports it cannot audit the GSL program because accounting records are poorly maintained. The Department has been forced to hire contractors to assemble basic guarantee agency data that should have been available and routinely analyzed.

Limited data and analysis. In many cases ED can't answer even basic questions about the program and its effectiveness. In some

cases, the Department does not have data; in other cases, the data are available but not routinely analyzed.

ACTIONS RECOMMENDED

The review team—with the intent of building on reforms requested by the Administration and enacted by the Congress in the Omnibus Reconciliation Acts of 1989 and 1990—recommended that the Department of Education do the following:

Reorganize the Office of Postsecondary Education (OPE) and build up its staff level and ability to ensure that the other actions are implemented aggressively and effectively.

Strengthen and coordinate gatekeeping and monitoring functions to ensure that only legitimate educational providers participate in student aid programs;

Improve oversight of guarantee agencies and lenders;

Provide better systems and data for control and decision making; and

Organize a team to ensure that ED carries out these actions.

BACKGROUND

The following background information should help to clarify the analysis of the review team and the reasoning behind the actions they recommended.

HOW THE PROGRAM WORKS

The GSL program uses a complex system of nearly 8,000 postsecondary institutions (who verify student enrollment and eligibility for loans), 13,000 private lenders (who make the loans), and 45 State and private guarantee agencies (who insure the loans against default). This system provides loans to students or their parents to help meet the costs of postsecondary education. In 1991, about 4 million individuals will receive almost $11 billion in GSL loans. The Department reinsures the guarantee agencies for default claims paid to lenders.

By the end of 1991, there will be over $55 billion in outstanding loans. Total loans number over 22 million. The gross cumulative default rate has risen to nearly 17 percent, with the net default rate (offset for collections) approaching 12 percent. Schools with less than four-year programs typically have high default rates: proprietary schools averaged a 27 percent cohort default rate in 1989. Two-year public institutions averaged 17 percent, while four-year schools averaged 6 percent.

Besides providing reinsurance, ED recognizes accrediting agencies and approves school participation in the program through eligibility and certification procedures. It also enters into participation agreements with the guarantee agencies. While guarantee agencies determine and monitor lender participation in the program, ED can also take enforcement action against lenders. In addition, ED collects and disseminates data on the GSL program to inform managers and policy makers.

ORGANIZATIONAL PROBLEMS

Within the Office of Postsecondary Education (OPE), responsibility for student aid has been divided among the various offices. This division has led to fragmented management of the GSL program. For example, although there is a Deputy Assistant Secretary for Student Financial Aid and a Director of Student Financial Assistance Programs, neither is singly charged with responsibility for the three "gate keeping" functions of accreditation, eligibility, and certification. These functions determine which schools are allowed to enter the GSL program and continue to participate. Similarly, planning and program development occurs in three different offices, despite overlapping issues and concerns. The Assistant Secretary of Postsecondary Education is the only official within OPE whose responsibility encompasses all student aid functions. As a result, he has to deal with an unnecessary number of separate offices on any given issue.

This fragmented organizational structure complicates communication and decision making within the Department; results in several different offices dealing with schools, lenders, and guarantee agencies; delays the issuance of guidance and regulations; splits responsibility for compliance; reduces the likelihood of comprehensive program and system changes; limits program and policy analysis; and fails to use resources and processes in a coherent and effective manner.

Recently, OPE management took a positive step by transferring the school eligibility and certification functions into the Office of Student Financial Aid (OSFA). These functions have yet to be integrated fully into OSFA operations. Because the current Deputy Assistant Secretary has been "acting" for nine months, his ability to make major changes in organization and staffing has been limited.

Improvements in the financial management of the GSL program are critical. The present organization does not adequately emphasize fiduciary responsibilities, but focuses instead on promoting services to participants. To adjust and improve this focus, fresh management perspectives are in immediate necessity.

OPE does not have enough staff. Nor do all current staff have the necessary breadth, training, and skills to handle their growing responsibilities. OPE needs staff who can perform different managerial and analytical functions, with experience and training in finance, information systems, data analysis, planning and policy making.

What follows are recommendations for reorganization and staffing needs. They are ambitious and demand careful attention and diligent planning. The reorganization and specific personnel needs must be analyzed and clarified prior to hiring significant numbers of new staff. And senior managers should be involved in the reorganization, hiring, and training.

RECENT ACTIONS TO SOLVE PROBLEMS

ED and Congress have taken steps in recent years to curb the default problem. A default reduction initiative, implemented in 1986, combined legislative, regulatory, and management improvements. At both the Administration's request and its own initiative, Congress incorporated needed reforms in the Omnibus Budget Reconciliation Acts of 1989 and 1990. These changes included:

Eliminating GSL eligibility for students attending institutions with high default rates unless the institution can show mitigating circumstances that explain their high rate. This change will assist in removing the worst schools from the program and protect unsuspecting students who would have attended these institutions. Schools with default rates above 35 percent will not be eligible for the program starting July 1, 1991.

Lowering loan limits in the Supplemental Loans for Students program if students are enrolled in programs of less than one year. This change will prevent students in short-term programs from incurring excessive debt that their future earnings would be unlikely to support.

Delaying disbursement of GSL loans. This change will prevent students who drop out of school quickly from incurring large debts and would deter schools from registering students who are likely to drop out—a practice designed to obtain initial tuition and fees payments without the responsibility of rendering services.

Requiring schools to administer Secretary approved tests to students without a high school diploma, a strategy designed to determine a student's ability to benefit from the postsecondary program. This change will prevent students from enrolling in programs for which they are not prepared and, as a consequence, incurring debts without acquiring the skills or education to support repayment.

To emphasize its seriousness in facing these problems head on, ED must begin these steps immediately with high level support and follow up.

Taken together, the recommendations presented in this paper should reduce potential defaults from students at educationally deficient schools; assure adequate scrutiny of the activities and financial practices of lenders and guarantee agencies; better concentrate resources on priority needs; develop and make available better ways of doing business for our managers and policy officials; and greatly enhance our ability to root out and remedy problems. These suggested steps are realistic and a vital part of an overall strategy for improved management.

SPECIFIC RECOMMENDATIONS

The following specific recommendations are designed to implement the actions outlined in this report.

Recommendation No. 1: Reorganize the Office of Postsecondary Education into two subsidiary offices, each headed by a Deputy Assistant Secretary reporting to the Assistant Secretary for Postsecondary Education.

The Office of Student Financial Assistance—responsible for all student aid functions.

The Office of Higher Education Programs—responsible for grant and other initiatives to improve postsecondary education.

Discussion: In this organization, the Deputy Assistant Secretary for Student Financial Aid would be responsible for all student aid functions (including debt collection and other credit-related activities) and all gatekeeping/monitoring/compliance functions. To accomplish this restructuring, the Agency Evaluation and Support Division would be transferred to OSFA from the Office of Higher Education Programs. All other OPE functions would be the responsibility of a Deputy Assistant Secretary for Higher Education Programs.

The Office of Student Financial Aid would be organized along functional lines since many of its activities cut across programs. Three offices would be established: Program Development; Compliance and Enforcement; and Debt Collection, Finance, and Data Systems. The three offices would be headed by high-level, career-reserved Senior Executive Service employees with strong managerial and analytical skills.

To improve and consolidate OSFA's analytic capabilities, a new Division of Program and Financial Analysis would be established in the Office of Program Development. One unit would be dedicated to analyzing and monitoring the financial practices and condition of guarantee agencies (in the manner of bank examiners). This unit should be staffed with individuals trained in financial analysis, accounting, and management. Another unit would combine quality control and program analysis functions. This unit would compile and analyze program statis-

tics and prepare reports on activities and trends in the student aid programs. It would be staffed with individuals who are experienced in program analysis and have strong analytical and quantitative skills.

The proposed reorganization would ensure clean lines of communication and responsibility in managing and operating the student aid programs. By itself, however, the reorganization is unlikely to remedy the GSL program's myriad problems. Without strong talent in OSFA directing the groups responsible for solving the problems, any reorganization will probably accomplish little.

Recommendation No. 2: Emphasize strong leadership in all senior positions, including the Assistant Secretary, Deputy Assistant Secretary for Student Financial Aid, and the three office heads.

Discussion: The top administrator in OSFA—the Deputy Assistant Secretary for Student Financial Aid—should be selected on the basis of strong professional and management qualifications. This administrator should understand and be experienced in student aid or other large loan programs. The desperate need to improve the management and operations of this office demands an extremely well-qualified person to be available for the long haul.

All senior positions should be filled as soon as possible so that these officers can be involved in reorganizing the system and in hiring and training staff. Strong leadership is critical to integrating successfully the functional organization recommended above. Each of the three functional offices should be headed by a strong manager. The Program Development head should be well-versed in program and policy analysis; the Compliance and Enforcement head should have a background in financial analysis and oversight of complex entities; the Finance and Data System head should have strong computer analysis and systems skills and substantial experience in credit management.

Recent changes in the civil service law provide greater flexibility for recruitment efforts, and salary levels are more competitive; so there is potential for obtaining high quality management personnel. Limited funds for these activities are available in 1991. Where necessary, the Department should use limited-term or other accepted appointments to bring senior managers onboard quickly.

Current OPE staff should also be considered and selected if they bring appropriate skills, records of strong performance, perspective, and commitment to the position. Adequately trained and skilled support staff will also be needed with the creation of these new positions.

Recommendation No. 3: Reinforce staff at all levels of OSFA. Hire the numbers and kinds of staff necessary to handle the increased load to be placed on the office by new emphasis on analytical, quantitative, and managerial skills. Consider development of staff with the skills and perspective of bank examiners to handle guarantee agency monitoring.

Discussion: During the past 10 years, responsibilities in the student loan programs have grown substantially. Given the new demands to be placed on the organization for increased intensity in monitoring, data gathering and analysis, and financial management, significant numbers of new and retrained staff will be necessary to accomplish its mission. If the 1992 budget request is enacted, the employment ceiling for 1991 and the requested budget for 1992 would allow OPE to hire up to 150 new staff members by the end of this calendar year. It is reasonable to presume that most, if not all, of this number will be needed. At present, about 300 FTE are devoted to GSL and another 580 FTE work on other student aid programs. This goal is ambitious and will only be achieved through the following measures: expedited development of position descriptions; on-site recruitment of this spring's recipients of bachelor's and master's degrees—beginning immediately; and a major emphasis on hiring Presidential Management Interns from this year's class. The Department's personnel office may require additional support from the Office of Personnel Management to devise and carry out this intensive recruitment effort, which can include the new flexibility for recruitment included in last year's pay reform legislation. A full recruitment strategy should be developed and put into effect within the next three months.

The additional staff would complement the current OPE staff and should be assigned to financial and compliance-related activities, including certification, re-certification, and the imposition of sanctions, program reviews, information and data systems, program and policy analysis. These new staff members would supplement increases in recent years and would be distributed among the three new organizational units. However, the greatest share should be devoted to financial compliance and analysis.

An immediate priority effort must be to use more productively a major resource already within OPE: the current staff. Training programs specifically oriented toward expanding and improving the skills of current OPE staff must be developed and implemented quickly. Having staff operate with status quo skills while expanding the management effort will impair achieving the reforms sought for this program. New staff should complement, not compete with, current staff.

Recommendation No. 4: Strengthen and Coordinate Gatekeeping and Monitoring.

Discussion: Gatekeeping refers to the screening procedures followed by the State licensing agencies, accrediting agencies, and ED in recognizing accrediting agencies and scrutinizing institutions seeking to participate in student aid programs. State licensing bodies grant operating licenses; accrediting agencies review the quality of a school's academic program; ED recognizes accrediting agencies, ensures that the school meets the statutory definition of an "eligible" institution, and certifies that the school has the administrative and financial capability to participate in student aid programs.

Although most institutions participating in the student aid program are legitimate educational providers, some are not. Some of the high default rates and the associated problems of fraud and abuse occur because the accreditation, eligibility, and certification process has not worked well.

Accreditation agencies may not have adequate criteria in areas such as administrative and financial capability, and student outcome data. Although ED has formally recognized accrediting agencies for years, the strongest sanction taken against an accreditation agency to date has been limiting the term of recognition.

A study by the Office of Inspector General found that the Department did not enforce basic financial guidelines in its reviews, although OPE staff members assert that significant improvements have recently been made. However, this is an area where there are too few trained financial analysts. For this reason, underlying problems may continue without increased staff with new skills.

Responsibility for the gatekeeping functions is splintered. The 200 regional staff members, who perform routine program reviews and audit follow-ups, are not regularly involved in reviews of a school's eligibility and certification, a task performed by staff in Washington. Such tangential efforts squander opportunities to act on 'problem' schools in a concerted way. Until recently, the Deputy Assistant Secretary for Student Financial Aid has lacked responsibility for the crucial gatekeeping functions—accreditation, eligibility, and certification. While eligibility and certification were recently transferred to OSFA, accreditation remains in another office.

Once it is initially determined that schools are able to participate in student aid programs, they must continue to be monitored for compliance. ED has the authority to fine schools, place limitations on their participation in the program, and suspend or terminate participation. Yet Departmental use of these sanctions is an uncommon recourse. Since 1987, three suspensions and 35 limitations have been initiated; 44 schools have been terminated. In 1990, fines were assessed against 217 schools, resulting in payments of $765,000. Because fines (including those based on audit liabilities) are 'negotiated', the total pales when contrasted to the $106 million of proposed fine amounts and audit liabilities which comprised the starting points for negotiation.

Schools are required to submit a non-Federal financial and compliance audit every two years. These audits are frequently late—or never submitted. Many are seriously deficient in detail and quality. There is little indication that the Department uses the required biennial audits to undertake a credible review of a school's financial condition. Over fifteen hundred program reviews of schools are completed annually; these concentrate on student-aid aspects, rather than on financial aspects. The program reviews are supplemented by IG reviews of proprietary schools, but these efforts are demonstrably inadequate. They must be significantly increased and rigorously pursued.

Recommendation No. 5: Begin now to work with licensing boards and accreditation agencies to establish higher standards, including rewriting accreditation regulations.

Discussion: Without additional legislative authority, it is difficult for ED to influence the activity of State licensing boards. The 1992 Budget and legislative programs include specific suggestions for both licensing and accreditation improvements. In the meantime, the Department should seek to work in a cooperative manner with these boards to strengthen licensing criteria.

The Department does, on the other hand, have authority to change the criteria for recognizing accreditation agencies. Although a blunt instrument, the Department can condition or withdraw recognition of a agency. This authority has not been fully utilized. The Department should examine the criteria that accreditation agencies must meet to be recognized, focusing first on gaps or weaknesses that allow widespread accreditation by particular agencies of schools with high default rates. Revision of these criteria through rulemaking may be necessary to strengthen the accreditation activities of these agencies.

Regulations allow the Department to review an agency's recognition at any time, and to withdraw recognition of the agency. The Department should use this authority to

undertake priority reviews of accrediting agencies whose accredited schools have disproportionately high default rates. The reviews should provide the basis for revising and strengthening the accreditation criteria and processes used by these agencies.

A performance-based system to ensure accountability in student aid should be considered. An institution's default rate is one outcome measure, but the Department should develop others.

Recommendation No. 6: Combine and enhance reviews of ongoing program eligibility and administrative and financial certification and apply standards for participating schools more strictly.

Discussion: OSFA should condition or limit the certification of a school for administrative and financial capability to participate in student aid programs where such capability is not demonstrated. OSFA should also regularly monitor a school's financial condition and performance with Departmental financial and administrative capability requirements.

New financial analysts and program reviewers should coordinate activities within the OSFA and with the Inspector General to undertake gatekeeping activities better. The Department should work with an outside financial or management consultant to develop analytic guidelines and models to aid them in their reviews.

Recommendation No. 7: Expand and streamline the process for terminating a school's participation in the GSL program. Final regulations should be promulgated expeditiously.

Discussion: Hundreds of schools with average default rates over 35 percent will be eliminated from eligibility in July of 1991 with the implementation of the Omnibus Budget Reconciliation Act of 1990. A 30 percent cut-off will begin in 1993. The Department should be fully prepared to undertake timely adjudications and process appeals expeditiously. The Offices of General Counsel and the Administrative Law Judges, in addition to OPE, must continue efforts to gear up for likely appeals. At the present time, the Notice for Proposed Rulemaking—which would lay out the appeals process for terminated schools—is awaiting the definition of "mitigating circumstances" that would allow high default schools to avoid termination.

ED must have a well-reasoned rule proposal ready very soon. It should be shared with OMB, interest groups, and affected Hill staff and their views taken into account before an NPRM is published. Twice last year Congress passed laws to overrule student-aid regulations judged to be inadequately developed; this rule is too critical to fall into that category.

Recommendation No. 8: Immediately begin using financial and compliance audits, improved monitoring, and sanctions against schools with inadequate financial resources.

Discussion: Amend the "School Site Review Guide" to place greater emphasis on assessments of an institution's financial condition and include guidelines for doing these.

Better coordination is required between the program review and monitoring, and IG functions to assure continuing oversight of schools that are financially weak. An OPE reorganization combining gatekeeping and review functions will have major payoffs in improved communications and coordination.

The Department must ensure that OPE's recent tightening of surety bond requirements is reducing the Government's financial exposure and constraining, financially troubled schools from going overboard in relying on GSL-based tuition payments.

Current authorities must be applied much more aggressively. Through use of conditional certifications, the Department can increase the frequency and content of financial reviews of particular schools.

Recommendation No. 9: Immediately begin expanding the financial oversight of guarantee agencies. Stipulate minimum financial solvency requirements in agreements with guarantee agencies. Use an early warning system to detect financial weakness, and establish procedures for potential guarantee agency collapse.

Discussion: ED lacks any satisfactory system for monitoring the financial condition or practices of guarantee agencies. There is no "early warning system" to alert the Department that a guarantee agency is in financial trouble and that immediate intervention may be necessary. Indications of financial difficulties at HEAF failed to generate any timely Departmental response and were inadequate to forestall HEAF's complete collapse.

Department reviews of the financial condition of the guarantee agencies indicates that four guarantee agencies may fail in the next several years if corrective actions are not taken; others are in a financially vulnerable position. In addition, the takeover of HEAF will continue to require careful monitoring on an ongoing basis.

Inadequate controls allow lenders to delay or miss payments to ED of loan origination fees that they collect and which are owed the Government.

Under recommendation No. 1, a special unit responsible for monitoring the financial condition and practices of guarantee agencies would be established in the Office of Program Development.

Existing guarantee agency analytical models should be revised and improved as necessary and utilized by management to monitor the health of the agencies and to forecast future problems.

Procedures should be developed in anticipation of future guarantee agency failures. Departmental intervention and coordination with such agencies should occur early on to address problems.

Recommendation No. 10: Increase the number and severity of penalties and sanctions levied against guarantee agencies and lenders who fail to comply with substantive administrative and financial provisions.

Discussion: The General Counsel's Office should review and issue a report on the various compliance authorities available to the Department in enforcing various requirements of the GSL program.

Guarantee agency responsibilities for oversight of lenders and schools (including enforcement of program requirements) should be monitored closely and coordinated with Departmental monitoring and compliance efforts.

Through regulatory changes, the government should tighten controls on lenders over collection of loan origination fees and the accounting for these funds. These, and all other regulations, must be monitored closely to make sure they are issued on a timely basis.

Recommendation No. 11: Evaluate the data and information needed to manage and plan for the GSL program, and provide for better systems and data for control and decisionmaking.

Discussion: The Government Accounting Office, the Inspector General, and the Senate Subcommittee on Investigations have all characterized the Department's computer systems for the GSL program as being wholly inadequate. Data from these systems are either old, unreliable, or not collected at all. Data bases do not relate well to each other; information is replicated in many different subsystems, but because of coding and other errors, it is not easy to correlate or combine data. Data that are available are often not analyzed or used effectively. No systematic analysis of required and/or desired data has been undertaken.

Some of the problems stem from a scheme that has compartmentalized management of these systems. There is a poor understanding of what each system contains and how their operations might be integrated. This lack of understanding appears to be carrying over into the development of a new system, the National Student Loan Data System (NSLDS)—where a precise definition of how the NSLDS will interface with, complement, or supplant the three existing systems—has yet to be prepared.

Because high quality, timely data are generally not available, the Department often cannot answer questions on student aid programs and participants. When policy, regulatory, or financial analyses raise more complicated questions, these often require a time-consuming and costly reprogramming of software before a response can be given. In addition, the Department often cannot readily judge the effectiveness or merits of programs, management techniques, or alternative policy proposals because of insufficient information, analyses, and evaluations.

A comprehensive analysis of data needs is the first step to improving program management and information. The study teams on data needs did not undertake this kind of assessment. Such an assessment involves determining what information is needed to accomplish the following: to monitor guarantee agencies and lenders, to predict more accurately default and interest costs, to improve collections, to forecast volume, to outline borrower characteristics, to analyze proposed legislative and regulatory changes, and to evaluate program effectiveness.

Recommendation No. 12. Correct serious shortcomings in current management information systems so that data required for compliance, financial, and evaluation purposes are useful, timely, and accurate.

Discussion: Once data needs have been identified, ED should make it a priority task to evaluate the best way to collect these data. To accomplish this task, the Department must first understand how data needs relate to other student aid programs. Such understanding will require a comprehensive assessment of all data needs and the current GSL-related systems, including the delineation of data flows, definition of user needs, and approved and proposed plans to modify current systems.

For the new National Student Loan Data System (NSLDS), data content, applications, and linkages with other GSL-related systems must be quickly defined. The prospective cost of NSLDS (as well as system designs that delay operational use until a full-blown system is finished) must be scrutinized carefully or else the system will have little value for its primary purpose of reducing defaults and overpayment of awards.

The staff for developing, procuring, and operating GSL information systems should be consolidated in a single organization within OSFA.

Contracts for the GSL and Title IV Application systems are up for renewal in 1993. The future design and operation of these sys-

tems must be integrated with the design and operation proposed for NSLDS. ED should initiate further cost/benefit analysis on the merits of changing the present arrangement between the contractors and the Department on the ownership and operation of the systems. This analysis should be undertaken so the Department can be more responsive to changing needs.

Program analysis, simulation modelling of the student aid programs, and evaluation activities should be increased to assess better how programs are working and whether or not they are effecting the intended outcomes. Program analysis—compiling program data and preparing reports on the student aid programs—would occur in the new OSFA analysis division. To ensure independent and objective assessments of program operations and performance; the Planning and Evaluation Service (in OPBE) should continue to be responsible for program evaluations. Evaluation activities include analyses of participants, services, and strategies to determine if program operations are effective. Because of past problems with predicting student aid costs, responsibility for computer models that analyze the distributional and cost implications of changes in the student aid programs should be better organized and responsibility centralized in one office.

A long-term analysis and evaluation plan for student aid should be developed by the Department. These activities must be accompanied by greater coordination and cooperation among Department offices. The development of this plan should involve all Department offices responsible for student aid programs. Earmarking program funds in appropriation requests would be one way to increase funds for evaluation of the student aid programs; in the past program funds have not been available for studies. While over $16 million is spent on Chapter 1 evaluation each year, less than $5 million per year has been used on student aid evaluations.

On a regular basis, the Department should prepare, publish, and disseminate an increased number of reports on student aid programs—program descriptions, program and policy analyses, and evaluation studies. The new OSFA analysis division and OPBE would be responsible for these reports.

Recommendation No. 13. Immediately begin to establish a temporary team with responsibility for ensuring that the Department successfully carries out these recommended actions.

Discussion: A temporary team of Departmental staff should be created and assigned the task of implementing the near-term program-related actions. The temporary team should review the study team reports and outline a blueprint for specific action. (These reports contain more detailed findings and specific recommendations which complement the general recommendations outlined above.) The team should also ensure that various reorganization proposals, position descriptions, and recruitment plans are prepared.

This team should be headed by a senior staff person and should report to a senior official representing the Secretary. This step is important to ensure actions and to indicate to the outside community, including Congress, the seriousness of the entire Department's commitment to solving these problems.

The team should also review the process for student aid regulation—which is historically slow and long—and should identify and correct any systemic Departmental problem that might cause lengthy delays in strengthening and restructuring the organization.

At the beginning, status reports should be prepared each month so that implementation problems are recognized and addressed quickly. The team should also prepare periodic reports to the Secretary that indicate the Department's commitment to real reform in the student aid programs.

CONCLUSION

As mentioned earlier, none of these recommendations are earth-shattering. However, taken together they constitute a strong course of corrective action by the Department. To implement these recommendations successfully would require a major commitment of resources and leadership beginning immediately. Without this kind of commitment, the recommended steps will have limited impact on GSL management and operations.●

By Mr. INOUYE (for himself, Mr. HOLLINGS, Mr. STEVENS, Mr. BENTSEN, Mr. KERRY, and Mr. BURNS):

S. 1504. A bill to authorize appropriations for public broadcasting, and for other purposes; to the Committee on Commerce, Science, and Transportation.

PUBLIC TELECOMMUNICATIONS ACT

● Mr. INOUYE. Mr. President, I rise today to introduce the Public Telecommunications Act of 1991, legislation authorizing funding for the Corporation for Public Broadcasting [CPB] for fiscal years 1994 through 1996 and for the Public Telecommunications Facilities Program [PTFP] for fiscal years 1992 through 1994.

Public broadcasting has been an integral part of the American broadcasting system since its inception in the 1920's. A public broadcasting station was one of the first radio stations to go on the air in the early 1920's. Public broadcasters have been innovators both in the areas of programming and technology. In fact, PBS was one of the first organizations to test satellites as a mechanism for distributing programming to its affiliates. Since its beginnings, public broadcasting has grown to become synonymous with quality programming addressing a wide range of issues and concerns. These facts demonstrate that public broadcasting has come a long way toward achieving its goals.

When the Public Broadcasting Act of 1967 was passed, its basic purpose was "to encourage the growth and development of public radio and television broadcasting * * * for instructional, educational, and cultural purposes; * * * to develop technologies for the delivery of public telecommunications services; and expansion and development of [the] diversity of its programming." I think that we can all agree that public broadcasting has worked to fulfill those goals and, for the most part, successfully.

In the 20 years since the Public Broadcasting Act was passed, the number of noncommercial stations and the available programming has inceased tremendously. At the same time, the number of alternative sources of programming have evolved, particularly, video services. This does not mean that the work of the CPB or our public broadcasting stations is finished. There continue to be many rural areas that have few if any public broadcast stations. There continues to be a need for expansion of public broadcasting service, particularly public radio stations and programming service in less populated and remote areas of our Nation. This Congress the committee intends to examine these needs and try to allocate sufficient resources to address the needs of these citizens.

In addition, public broadcast stations are finding it increasingly difficult to fund existing operations and programming, not to mention research and development. To ensure that the CPB can assist stations in the maintenance and expansion of their current high quality programming, to enhance program production, and to further technological developments in the industry, this legislation authorizes funding for the CPB in the amount of $355 million for fiscal year 1994, $401 million for fiscal year 1995, and $444 million for fiscal year 1996.

The bill also addresses one housekeeping matter, the CPB presently has an even number of Board members. In order to avoid stalemates, this bill reduces the number of CPB board members from 10 to 9, to give the CPB an odd number of Board members. The legislation also lengthens the terms of each member from 5 to 6 years and staggers the terms of the members.

Funding for the PTFP is also authorized in this bill. This program provides funds for the construction of new stations and upgrading of existing stations. It helps to ensure public broadcast service to unserved and underserved communities or segments of the population. This bill authorizes $42 million per year each year for fiscal years 1992, 1993, and 1994.

The increases proposed here are necessary to enable the program to overcome the effects of inflation and to permit a small increase in the number of stations assisted. In 1990, the program received 276 eligible applications for assistance totaling over $59.8 million but was only able to accept 111 applications, awarding $20.7 million. In addition, the cost of transmission equipment and other necessary facilities has increased between approximately 20 percent over the last 5 years. Thus, the increases are necessary to cover some additional funding requests and cover the costs of inflation.

In closing, I want to urge all of my colleagues to support this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1504

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Public Telecommunications Act of 1991".

PUBLIC TELECOMMUNICATIONS FACILITIES AUTHORIZATION

SEC. 2. Section 391 of the Communications Act of 1934 (47 U.S.C. 391) is amended—

(1) by striking "and" after "1990," ; and

(2) by inserting "$42,000,000 for fiscal year 1992, $42,000,000 for fiscal year 1993, and $42,000,000 for fiscal year 1994," immediately after "1991,".

CONGRESSIONAL DECLARATIONS OF POLICY

SEC. 3.(a) Section 396(a) of the Communications Act of 1934 (47 U.S.C. 396)) is amended—

(1) by striking "and" at the end of paragraph (7);

(2) by redesignating paragraph (8) as paragraph (10); and

(3) by inserting immediately after paragraph (7) the following new paragraphs:

"(8) public television and radio stations constitute valuable local community resources for utilizing electronic media to address national concerns and solve local problems through community programs and outreach programs;

"(9) it is in the public interest for the Federal Government to ensure that all citizens of the United States have access to public telecommunications services through all appropriate available telecommunications distribution technologies; and".

BOARD OF DIRECTORS

SEC. 4. (a)(1) Section 396(c)(1) of the Communications Act of 1934 (47 U.S.C. 396(c)(1)) is amended—

(A) by striking "10" and inserting in lieu thereof "9"; and

(B) by striking "6" and inserting in lieu thereof "5".

(2) Section 396(c)(2) of the Communications Act of 1934 (47 U.S.C. 396(c)(2)) is amended by striking "10" and inserting in lieu thereof "9".

(b) Section 396(a)(5) of the Communications Act of 1934 (47 U.S.C. 396(a)(5)) is amended to read as follows:

"(5) The term of office of each member of the Board appointed by the President shall be 6 years, except as provided in section 4(c) of the Public Telecommunications Act of 1991. Any member appointed to full a vacancy occurring prior to the expiration of the term for which such member's predecessor was appointed shall be appointed for the remainder of such term. No member of the Board shall be eligible to serve in excess of 2 consecutive full terms.".

(c)(1) An office, as referred to in this subsection, is an office as a member of the Board of Directors of the Corporation for Public Broadcasting.

(2) With respect to the three offices whose terms are prescribed by law to expire on March 26, 1992, the term for each such office immediately after that date shall expire on April 1, 1998.

(3) With respect to the two offices whose terms are prescribed by law to expire on March 1, 1994, the term for each of such offices immediately after that date shall expire on April 1, 2000.

(4) With respect to the five offices whose terms are prescribed by law to expire on March 26, 1996—

(A) one such office, as selected by the President, shall be abolished on March 26, 1996;

(B) the term immediately after March 26, 1996, for another such office, as designated by the President, shall expire on April 1, 2000; and

(C) the term for each of the remaining three such offices immediately after March 26, 1996, shall expire on April 1, 2002.

CORPORATION FOR PUBLIC BROADCASTING AUTHORIZATION

SEC. 5. Section 396(k)(1)(C) of the Communications Act of 1934 (47 U.S.C. 396(k)(1)(C)) is amended—

(1) by striking "and" 1993" and inserting in lieu thereof "1993, 1994, 1995, and 1996";

(2) by striking "and" after "fiscal year 1992,"; and

(3) by inserting ", $355,000,000 for fiscal year 1994, $401,000,000 for fiscal year 1995, and $444,000,000 for fiscal year 1996" immediately after "fiscal year 1993".

REPEAL

SEC. 6. Paragraph (4) of section 396(l) of the Communications Act of 1934 (47 U.S.C. 396(l)) is repealed.

EFFECTIVE DATE

SEC. 7. Section 4(a) shall take effect on March 26, 1996. All other provisions of this Act are effective on its date of enactment.●

● Mr. HOLLINGS. Mr. President, I rise today to express my strong support for the Public Telecommunications Act of 1991, which I am proud to cosponsor. This bill authorizes funding for the Corporation for Public Broadcasting and the Public Telecommunications Facilities Program and will ensure the continued growth of the American system of public broadcasting, a vital part of our broadcasting industry and an important source of informational, cultural, and instructional programming.

I have long supported the American system of public broadcasting. Many Americans depend on public broadcasting for substantive, in-depth treatment of current issues that commercial stations do not provide. Despite numerous changes and funding obstacles, our public broadcasters have consistently provided the American public with high-quality programming, like the PBS Civil War series.

Today, many of the larger markets have multiple public television and radio stations serving the diverse interests of those communities. At the same time, we should not lose sight of the fact that there are still communities with little or no service, and we must continue to strive to serve these areas. There are rural areas in this country where public radio stations are the only broadcast stations available to residents. As a result they bear a tremendous burden and need our support.

In the area of education, public broadcasters work with our schools and universities to expand and supplement their curricula. In view of the rising costs of education, it is imperative that we continue to fund one of the most economical and efficient mechanisms of distributing educational information to our children, both in their homes and in schools.

Given the importance of public broadcasting, the funding provided in the bill is far less than what ideally is needed, but is realistic in the context of the current budgetary climate. We are aware that the majority of public broadcast stations' funding is raised from private sources—sources that are suffering the effects of the current recession. In addition, these stations are facing funding reductions in State and local funding. Thus, while the CPB provides only 15 percent of all the funds used for the operation of public broadcast stations and the production of programming, it is imperative that we provide the maximum support possible for our stations in this authorization.

In closing, I believe that this legislation is essential if our public broadcasting system is to continue to provide quality programming to the Nation's citizens. I urge my colleagues to support it.●

By Mr. DECONCINI (for himself, Mr. HATCH, Mr. MCCAIN, Mr. SHELBY, Mr. KENNEDY, Mr. HOLLINGS, Mr. BRADLEY, and Mr. METZENBAUM):

S. 1505. A bill to amend the law relating to the Martin Luther King, Jr. Federal Holiday Commission; to the Committee on the Judiciary.

MARTIN LUTHER KING HOLIDAY

Mr. DECONCINI. Mr. President, I rise today, along with my colleagues, Senators HATCH, MCCAIN, SHELBY, KENNEDY, HOLLINGS, BRADLEY, and METZENBAUM, to introduce a bill which will improve the effectiveness of the Martin Luther King, Jr., Federal Holiday Commission. An identical bill, H.R. 2215, was introduced in the House of Representatives by Congressman SAWYER on May 2, 1991.

This Commission was established in 1984 to encourage activities relating to the observance of the Martin Luther King, Jr., Federal holiday honoring the accomplishments of Dr. King. Although Congress appropriated $300,000 per year for 5 years to the Commission in 1989, the tremendous reponse to the efforts of this valuable organization has created a need for the Commission to expand its work force.

The Commission has experienced a great deal of success in accomplishing its objectives. When the Commission began work in 1984, only 17 States recognized the achievements of Dr. King by observing the Martin Luther King, Jr., Federal Holiday. Since that time, an additional 32 States have established a holiday honoring achievements in the area of civil rights. Although my home State, Arizona, does not currently recognize the achievements of Dr. King, 23 cities, including Phoenix and Tucson, have responded to efforts promoting Dr. King's achievements by celebrating the holiday through their own initiatives. By promoting compassion, justice, and understanding, the Commission educates our young about the importance of racial equality.

Although the Commission has been successful so far, without additional funding they will not be capable of fulfilling the objectives my colleagues felt so strongly about in 1989. Because of the Commission's difficulty competing against established organizations for private sector contributions, the Commission will fall short of their necessary funding requirements.

The bill I am introducing today will remedy this situation by authorizing an additional $200,000 and $400,000 for the Commission for the 1992 and 1993 fiscal years, respectively. This additional funding authorization will allow the Commission to maintain the quality of the personnel they currently have, while expanding their work force to meet the demands of their wide-ranging activites.

Specifically, the additional funding authorization will allow the Commission to expand from five to eight staff positions and from 23 to 30 at-large members. Both of these provisions are included in my bill, which also increases the maximum rate of pay for staff members from GS–13 to GS–15. Aside from the increase in authorized funding, this bill will not result in additional costs, but the quality and quantity of the Commission's activities will be improved.

During his lifetime, Martin Luther King, Jr., fought for the cause of civil rights for all people, which affected millions of lives. His accomplishments live on as our society continues to strive for racial equality. This bill merely provides the Commission with the resources to continue informing our young that they too can make a difference. The effect of the Commission's efforts is felt not only in the area of civil rights, but throughout our society.

Mr. President, I ask unanimous consent that the entire text of the bill I am introducing today be included in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1505

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act entitled "An Act to establish a commission to assist in the first observance of the Federal legal holiday honoring Martin Luther King, Jr." (36 U.S.C. 169j and following) is amended—

(1) in section 4(a)(6) by striking "twenty-three" and inserting "thirty";

(2) in section 6(a)—

(A) by striking "five" and inserting "eight"; and

(B) by striking "GS–13" and inserting "GS–15"; and

(3) by amending section 7 to read as follows:

"SEC. 7. There are authorized to be appropriated to carry out this Act—

"(1) $500,000 for fiscal year 1992; and

"(2) $700,000 for fiscal year 1993.".

By Mr. GLENN (for himself and Mr. HATCH):

S. 1506. A bill to extend the terms of the olestra patents, and for other purposes; to the Committee on the Judiciary.

EXTENSION OF THE TERMS OF THE OLESTRA PATENTS

• Mr. GLENN. Mr. President, I rise to introduce a bill and ask that it be referred to the appropriate committee.

Mr. President, this bill would extend certain patents related to a product known as olestra. Olestra is a fat substitute which tastes, feels, and acts like fat, but does not add any fat, calories, or cholesterol to the food in which it appears.

Procter and Gamble, an Ohio corporation, has spent tens of millions of dollars in research and development to create and develop olestra.

The thing about olestra which warrants the patent relief provided herein is that it is a unique product; so unique that the FDA has no precedent for the required review before the product is approved for consumer consumption. The review time is so extensive that, by the time it is given, if at all, the patents may have expired, depriving Procter and Gamble of all exclusive marketing rights of its invention.

I offer this legislation because I believe that the intent of the legislation is consistent with U.S. patent law, which protects exclusive marketing rights of a product. This protection is particularly important to encourage research and development on the part of U.S. corporations if America is to remain competitive in the international marketing arena.

In its development of olestra, Procter and Gamble has proven itself to be a pioneer in the area of fat substitutes in a weight- and health-conscious world market. The downside is that Procter and Gamble, by doing so, has found itself also in a pioneering regulatory situation.

I feel that the FDA is right in taking its time to carefully review this unique product, and that Congress should certainly do nothing to speed up or otherwise compromise this process. Consumer safety is the basis for the extensive review and I would rather see years of review to ensure that the product is safe than to rush the review only to find out years hence that the product should never have been released.

However, I do not feel that Procter and Gamble should lose the exclusive marketing rights of its product because of the additional review time. This bill would provide a 10-year extension on four olestra-related patents held by Procter and Gamble. The time of the extensions would begin at the time the product is finally approved by the FDA.

Mr. President, I feel that this action is proper and necessary. It will provide the necessary financial incentive for continued corporate investment in research and development, thus keeping U.S. corporations competitive in world markets.•

ADDITIONAL COSPONSORS

S. 401

At the request of Mr. DOMENICI, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 401, a bill to amend the Internal Revenue Code of 1986 to exempt from the luxury excise tax parts or accessories installed for the use of passenger vehicles by disabled individuals.

S. 837

At the request of Mr. BUMPERS, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 837, a bill to amend the Internal Revenue Code of 1986 with respect to the discharge, or repayment, of student loans of students who agree to perform services in certain professions.

S. 1166

At the request of Mr. INOUYE, the name of the Senator from Georgia [Mr. FOWLER] was added as a cosponsor of S. 1166, a bill to provide for regulation and oversight of the development and application of the telephone technology known as pay per call, and for other purposes.

S. 1179

At the request of Mr. JOHNSTON, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 1179, a bill to stimulate the production of geologic-map information in the United States through the cooperation of Federal, State, and academic participants.

S. 1226

At the request of Mr. JEFFORDS, the name of the Senator from Louisiana [Mr. JOHNSTON] was added as a cosponsor of S. 1226, a bill to direct the Administrator of the Environmental Protection Agency to establish a small community environmental compliance planning program.

S. 1245

At the request of Mr. DASCHLE, the names of the Senator from Arkansas [Mr. BUMPERS] and the Senator from Arkansas [Mr. PRYOR] were added as cosponsors of S. 1245, a bill to amend the Internal Revenue Code of 1986 to clarify that customer base, market share, and other similar intangible items are amortizable.

S. 1261

At the request of Mr. DOLE, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 1261, a bill to amend the Internal Revenue Code of 1986 to repeal the luxury excise tax.

S. 1395

At the request of Mr. GRASSLEY, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 1395, a bill to assist in the development of micro-enterprises and micro-enterprise lending.

SENATE JOINT RESOLUTION 8

At the request of Mr. SANFORD, the names of the Senator from Pennsylvania [Mr. WOFFORD] and the Senator from Wisconsin [Mr. KOHL] were added as cosponsors of Senate Joint Resolution 8, a joint resolution to authorize the President to issue a proclamation designating each of the weeks beginning on November 24, 1991, and November 22, 1992, as "National Family Week."

SENATE JOINT RESOLUTION 140

At the request of Mr. WARNER, the names of the Senator from Utah [Mr. GARN], the Senator from Idaho [Mr. SYMMS], the Senator from North Dakota [Mr. BURDICK], the Senator from Missouri [Mr. DANFORTH], the Senator from Arkansas [Mr. BUMPERS], and the Senator from Louisiana [Mr. JOHNSTON] were added as cosponsors of Senate Joint Resolution 140, a joint resolution to designate the week of July 27 through August 2, 1991, as "National Invent America Week."

SENATE JOINT RESOLUTION 141

At the request of Mr. WARNER, the names of the Senator from Idaho [Mr. CRAIG], the Senator from Idaho [Mr. SYMMS], the Senator from North Carolina [Mr. SANFORD], the Senator from Delaware [Mr. ROTH], the Senator from Missouri [Mr. DANFORTH], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Iowa [Mr. GRASSLEY], and the Senator from Pennslyvania [Mr. SPECTER] were added as cosponsors of Senate Joint Resolution 141, a joint resolution to designate the week beginning July 21, 1991, as "Korean War Veterans Remembrance Week."

SENATE JOINT RESOLUTION 172

At the request of Mr. INOUYE, the names of the Senator from Arkansas [Mr. BUMPERS], the Senator from Georgia [Mr. FOWLER], the Senator from South Dakota [Mr. PRESSLER] were added as cosponsors of Senate Joint Resolution 172, a joint resolution to authorize and request the President to proclaim the month of November 1991, and the month of each November thereafter, as "National American Indian Heritage Month."

SENATE RESOLUTION 82

At the request of Mr. SMITH, the names of the Senator from Oregon [Mr. HATFIELD], the Senator from New York [Mr. D'AMATO], the Senator from Utah [Mr. GARN], the Senator from Idaho [Mr. SYMMS], and the Senator from Idaho [Mr. CRAIG] were added as cosponsors of Senate Resolution 82, a resolution to establish a Select Committee on POW/MIA Affairs.

SENATE RESOLUTION 116

At the request of Mr. ROTH, the names of the Senator from California [Mr. SEYMOUR] and the Senator from Missouri [Mr. BOND] were added as cosponsors of Senate Resolution 116, a resolution to express the sense of the Senate in support of Taiwan's membership in the General Agreement on Tariffs and Trade.

NOTICES OF HEARINGS

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LEAHY. Mr. President, I would like to announce that the Senate Committee on Agriculture, Nutrition, and Forestry will be holding a hearing on disaster assistance legislation pending before the committee. The hearing will be held on Tuesday, July 23, at 9:30 a.m., in SR-332.

For further information please contact Bill Gillon of the committee staff at 224-5207.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON INVESTIGATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs be authorized to meet during the session of the Senate on Friday, July 19, 1991, to hold a hearing on Efforts to Combat Fraud and Abuse in the Insurance Industry: Part III.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON MEDICARE AND LONG-TERM CARE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Medicare and Long-Term Care of the Committee on Finance be authorized to meet during the session of the Senate on July 19, 1991, at 10 a.m., to hold a hearing on the Health Care Financing Administration's [HCFA] rulemaking proposal on Medicare physician payment reform.

COMMITTEE ON FOREIGN RELATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Friday, July 19, at 10 a.m., to receive a closed briefing on Chinese nuclear involvement in the Middle East.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Friday, July 19, 1991, at 9:30 a.m., to hold a hearing on the nomination of Andrew J. Kleinfeld, to be U.S. circuit judge for the ninth circuit, Benson Everett Legg, to be U.S. district judge for the district of Maryland, Dee V. Benson, to be U.S. district judge for the district of Utah, and Donald L. Graham, to be U.S. district judge for the southern district of Florida.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

HELPING THE SOVIET OIL INDUSTRY

• Mr. LIEBERMAN. Mr. President, a few days ago, the Journal of Commerce contained a very thoughtful essay by Peter von Braun, a constituent of mine, on how to resuscitate the Soviet oil industry.

He knows of the problems confronting the industry, because through his company, U.S.S.R. Oil Recovery, he has been working hard to bring new life to existing Soviet oil fields through innovative techniques. He has had some success, but has run into the ubiquitous Soviet bogeyman—the vast government bureaucracy—in trying to do business with Soviet oil barons.

There has been a great deal of discussion about putting together a grand bargain to aid the Soviet Union. The Federal Government has a large deficit, so a significant infusion of cash to the Soviets—even if all economic and political conditions for such aid were met ahead of time—is not a real possibility. But it is strongly in our national interest, in light of our overdependence on Middle Eastern oil, to increase Soviet oil production and exports. If we can work with them to bring life to their oil industry, their oil industry could be the key to providing capital investment to support a market economy. A profitable oil industry enables the Soviets to pay for their own reforms. In his article, Peter suggests that the United States help the Soviets lay out specific objectives that can serve as a guide to turning around their ailing oil industry. He has some very interesting ideas. I am submitting his article for the RECORD so that my colleagues will have an opportunity to read it. The article follows:

[The Journal of Commerce, July 17, 1991]

FREE THE SOVIET OIL INDUSTRY

(By Peter von Braun)

Soviet President Mikhail Gorbachev is not likely to walk away from his meeting with Western leaders in London this week with promises of massive financial aid. Instead, he'll probably come away with more modest pledges of Western technical assistance. This could include some aid for revitalizing the beleaguered Soviet oil industry.

But no amount of Western help can make a difference unless the Soviets are ready to help themselves. As a first step, they should liberate the Soviet oil industry. Oil traditionally has been the largest Soviet export. And the Soviet Union needs to increase exports to earn the hard currency necessary to finance internal reforms.

Leading up to this week's G-7 summit in London, Secretary of State James Baker said a package of Western reforms for Moscow may include "a public-private project to resolve impediments to private investment in their energy sector, investments which can earn hard currency for them and provide an example of a successful sector operating with property and contract rights."

The Soviet oil industry faces a major crisis. Though the soviet Union is now the

world's largest oil producer and a major exporter, many experts predict it will become a large importer of oil as early as the mid-1990s unless radical changes are made.

Soviet petroleum production has fallen from 600 million tons in 1988 to 550 million tons in 1990. Forecasts for 1991 show a continued decline to between 500 million and 524 million tons—equivalent to a drop of 1.5 million to 2 million barrels a day. This decline already has caused a major drop in Soviet oil exports, primarily to Eastern Europe.

The problems plaguing the Soviet oil sector today became obvious to me during a recent trip to the Soviet Union, where I consulted with oil producers to teach them techniques to get more oil out of older wells. Soviet oil producers must deal with faltering central control without clear guidelines as to how the new "system" works, a massive bureaucracy, compartmentalization of functions, and political confusion between the Autonomous Republics, Union Republics and All Union levels.

As a result of these problems, Soviet oil producers often have difficulty meeting their obligations under deals signed with Western companies. Their inability to deliver on their commitments—failure to export the oil earned by Western companies from joint production arrangements, for example—can destroy Soviet-Western relationships. Typical Soviet excuses are that "it's just too complicated under the current system" or "only Prime Minister Pavlov can approve exports now" and, left unsaid, "we don't dare approach him."

Further, it appears that some Soviet hardliners are opposed to increased Western investment in the Soviet oil industry, so they drag their feet on approving joint venture arrangements. Obstructing deals may be their unofficial way of driving out Westerners.

The United States can help by setting out specific reform objectives for Mr. Gorbachev. The first item on the U.S. agenda should be to insist that the Soviets live up to the deals they already have signed (the problem on non-payment is not unique to the oil patch). Liberating oil exports should be the first step.

Second, the United States should urge the Soviet to simplify the way business is done in their oil industry. There is much confusion over which level of government is in charge and how co-production, joint ventures or technology transfers get established, registered and authorized. This chaos delays investment and technology transfers for years. The Soviets must decentralize the decision-making process and clarify lines of authority.

Third, the United States should urge the Soviets, themselves, to invest in their own industry. Current Soviet "revenue sharing" arrangements are confiscatory beyond any rule of reason. The state pays many Soviet oil production associations only about 60 rubles-a-ton or about 8 rubles-a-barrel for the oil they produce. At free market rates, this is only about $2 a ton or $0.27 a barrel vs. world market prices of about $150 a ton or $20 a barrel.

Soviet oil producers have not had the money to invest in the maintenance of infrastructure, new technology, exploration and development, or even the most basic environmental safety measures. Often they require massive state subsidies to maintain even the most rudimentary levels of operations. Mr. Gorbachev must liberate the oil economy to finance needed reinvestment by letting producers keep more of the value of what they produce.

Fourth, the United States should urge the Soviets to price domestic energy, including petroleum, at free market levels. This would create a strong movement toward energy conservation and make pollution control through more efficient energy usage economically attractive. Conservation could have a great effect on Soviet petroleum consumption, increasing energy efficiency by 25% or more. This would free up some $20 billion worth of oil for export.

Skeptics would say that the Soviet economy cannot stand the shock of sensible oil pricing. Poland, Hungary and Czechoslovakia already have made this transition. As a huge oil producer, the Soviet Union should be able to handle the transition even more smoothly.

Liberating prices would do three things: force conservation, decrease pollution, and generate the hard currency necessary to finance reform. These three effects would create a massive stimulus for economic activity and create new markets for Soviet industry.

Without reforms in the oil industry, American companies will not be willing or able to transfer technology to increase oil production from existing Soviet oil fields—the answer to the short-term production crisis—or to undertake large scale exploration and development programs—the answer to long-term production needs.

Washington can do a great deal to help the Soviets pull themselves out of their own economic crisis. Urging Moscow to adopt sound energy policies should be very high on the U.S. agenda.●

WORKING FAMILY TAX RELIEF ACT OF 1991

● Mr. GORE. Mr. President, at the appropriate time in the future, I will propose the following amendment to S. 995, the Working Family Tax Relief Act of 1991. I ask that this statement and the following changes I will propose be printed in the RECORD.

Title I, on page 2, line 11, insert at the beginning of the line "beginning with the taxable year following calendar year 1992,"

Title I, on page 3, line 12, replace "1992" with "1993".

Title II, on page 5, line 20, replace "If taxable income is: Over $110,000 The tax is: $27,845.50 plus 35% of the excess over $300,000" with the following: "If taxable income is: Over $110,000, The tax is: $27,845.50 plus 36% of the excess over $110,000."

Title II, on page 6, line 4, replace "If taxable income is: Over $94,000, The tax is: $24,005.50, plus 35% of the excess over $94,000" with the following: "If taxable income is: Over $94,000, The tax is: $24,005.50, plus 36% of the excess over $94,000."

Title II, on page 6, line 12, replace "If taxable income is: Over $66,000, The tax is: $16,709.50, plue 35% of the excess over $66,000" with the following: "If taxable income is: Over $66,000, The tax is: $16,709.50, plus 36% of the excess over $66,000."

Title II, on page 7, line 2, replace "If taxable income is: Over $55,000, The tax is: $13,922.75, plus 35% of the excess over $55,000" with the following: "If taxable income is: Over $55,000, The tax is: $13,922.75, plus 36% of the excess over $55,000."

Title II, on page 7, line 8, replace "If taxable income is: Over $13,200, The tax is: $3,369, plus 35% of the excess over $13,200" with the following: "If the taxable income is: Over $13,200, The tax is: $3,369, plus 36% of the excess over $13,200."

Title II, on page 7, line 11, replace "35 percent" with "36 percent".

Title II, on page 8, line 7, replace "11 percent" with "15 percent".

Title II, on page 8, line 7, insert after "for such taxable year" the following: ", beginning with the taxable year following calendar year 1992,".

Title II, on page 9, line 11, replace "$250,000" with "$200,000".

Title II, on page 9, line 13, replace "$200,000" with "$160,000".

Title II, on page 9, line 15, replace "$125,000" with "$100,000".

Title II, on page 9, line 9, replace "$150,000" with "$120,000".

In addition to the above amendments, the earned income tax credit provision shall be modified to make it internally revenue neutral.●

RECORD TO REMAIN OPEN UNTIL 4 P.M.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the RECORD remain open today until 4 p.m. for the submission of statements and introduction of legislation and that the Armed Services and Labor Committees may have until 4 p.m. today to report Executive or Legislative Calendar business.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR MONDAY, JULY 22, 1991

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 2:30 p.m. on Monday, July 22; that following the prayer and the time reserved for the two leaders, the Journal of proceedings be deemed approved to date; that there be a period for morning business not to extend beyond 3 p.m., with Senators permitted to speak therein; that at 3 p.m., the Senate proceed to the consideration of Calendar No. 149, S. 1367, a bill to extend to the People's Republic of China renewal of most-favored-nation treatment until 1992 provided certain conditions are met; and that there be no rollcall votes on Monday prior to 7 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SCHEDULE

Mr. MITCHELL. Mr. President, for the information of Members of the Senate, at 3 p.m. on Monday, pursuant to the order just obtained, the Senate will begin consideration of the bill to extend to the People's Republic of China renewal of most-favored-nation trade status until 1992 provided certain conditions are met.

There will be debate only on that measure until 4:30 p.m., following which we anticipate that Senator HELMS will be recognized to offer an amendment, a vote on which will occur

not prior to 7 p.m. There may be other amendments and other votes, although that has not yet been finally determined.

Senators should be aware that there will be at least one and possibly more rollcall votes on Monday not prior to 7 p.m., the time to be fixed on Monday after the Senate commences consideration of that measure.

RECESS UNTIL MONDAY, JULY 22, 1991, AT 2:30 P.M.

Mr. MITCHELL. Mr. President, if no other Senator is seeking recognition, I now ask unanimous consent that the Senate stand in recess, as under the previous order, until 2:30 p.m. on Monday, July 22.

There being no objection, the Senate, at 2:19 p.m., recessed until Monday, July 22, 1991, at 2:30 p.m.

NOMINATIONS

Executive nominations received by the Senate July 19, 1991:

FEDERAL RESERVE SYSTEM

ALAN GREENSPAN, OF NEW YORK, TO BE CHAIRMAN OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM FOR A TERM OF 4 YEARS. (REAPPOINTMENT)

ALAN GREENSPAN, OF NEW YORK, TO BE A MEMBER OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM FOR A TERM OF 14 YEARS FROM FEBRUARY 1, 1992. (REAPPOINTMENT)